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No. 41] NEW DELHI, OCTOBER 8—OCTOBER 14, 2006, SATURDAY ASVINA 16—ASVINA 22, 1928

इस भाग में विभिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(आर्थिक कार्य विभाग)
(बैंकिंग प्रभाग)

नई दिल्ली, 29 सितम्बर, 2006

का.आ. 3988.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा, 12 दिसम्बर, 1976 को भारत के राजपत्र (असाधारण) भाग-II, खंड 3, उपखंड (ii) में प्रकाशित दिनांक 9 दिसम्बर, 1976 के भारत सरकार के वित्त मंत्रालय के भूतपूर्व राजस्व एवं बैंकिंग विभाग (बैंकिंग विंग) की अधिसूचना संख्या का.आ. 787 (अ) में निम्नांकित संशोधन करती है, जो इस प्रकार है:—

उक्त अधिसूचना में “केरल राज्य के जिले केननूर, कासरगोड, कोट्टयम, एरणाकुलम, नॉर्थ वयनाड, वयनाड तालुका एवं आलप्पुषा” शब्दों को “केरल राज्य के जिले कण्णूर, कासरगोड, कोट्टयम, एरणाकुलम, वयनाड का मार्नतवाडी तालुका, आलप्पुषा एवं कोल्लम” से प्रतिस्थापित किए जाएंगे।

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यह अधिसूचना सरकारी राजपत्र में प्रकाशन की तिथि से प्रभावी होगी।

[फा. सं. 7/9/2005-आरआरबी]

एम. के. मल्होत्रा, अवर सचिव

नोट—मुख्य अधिसूचना दिनांक 9 दिसम्बर, 1976 के का.आ. 787 (अ) के तहत प्रकाशित किया गया था, जिसे बाद में भारत के राजपत्र के भाग-II, खंड 3, उपखंड (ii) में प्रकाशित 18 सितम्बर, 1999 की अधिसूचना का.आ. 2621 और 3 मार्च, 2003 की अधिसूचना संख्या का.आ. 760 द्वारा संशोधित किया गया था।

MINISTRY OF FINANCE
(Department of Economic Affairs)
(Banking Division)

New Delhi, the 29th September, 2006

S.O. 3988.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby

(8619)

makes the following amendments in the notification of the Government of India, in the Ministry of Finance in the erstwhile Department of Revenue and Banking (Banking Wing) number S.O. 787(E) dated the 9th December, 1976, published in the Gazette of India (Extraordinary) Part II, Section-3, sub-section (ii) dated the 12th December, 1976, namely:—

In the said notification, for the words “districts of Cannanore, Kasaragod, Kottayam, Ernakulum, North Wynad Taluka of Wynad and Alappuzha in the State of Kerala”, the words “districts of Kannur, Kasaragod, Kottayam, Ernakulum, Mananthwady Taluka of Wynad, Alappuzha and Kollam in the State of Kerala” shall be substituted.

This notification shall take effect from the date of publication in the Official Gazette.

[F.No. 7/9/2005-RRB]

M. K. MALHOTRA, Under Secy.

Note: The principal notification was published vide S.O. 787(E) dated the 9th December 1976, subsequently amended by notification S.O. 2621 dated the 18th September, 1999 and S.O. 760 dated the 3rd March, 2003, in the Gazette of India Part II, Section-3, sub-section (ii).

सामाजिक न्याय और अधिकारिता मंत्रालय

नई दिल्ली, 18 सितम्बर, 2006

का.आ. 3989.—इस मंत्रालय की अधिसूचना सं. 18-1/86-एच.डब्ल्यू-III दिनांक 17-9-1990, सं. 19-3/92-डीडी-I दिनांक 9-2-2001 और दिनांक 22-1-2004 के आंशिक संशोधन में पूर्व समाज कल्याण मंत्रालय द्वारा दिनांक 11-8-1983 की अधिसूचना के तहत पूर्ण अक्षयनिधि अधिनियम के अंतर्गत बनाए गए राष्ट्रीय विकलांगजन कल्याण कोष (विकलांगजनों के लिए राष्ट्रीय निधि के रूप में पुनः नामांकन किया गया) को निम्नलिखित उद्देश्यों के लिए बनाया गया:—

(i) विकलांगता के निवारण और इसकी समय से पहचान करने, विकलांगजनों की शिक्षा, प्रशिक्षण, वास्तविक और आर्थिक पुनर्वास हेतु विकलांग व्यक्तियों के लिए सेवाओं के अवसर प्रदान करने के लिए स्वयंसेवी क्षेत्र को प्रोत्साहित करना।

(ii) उपर्युक्त उद्देश्यों के समरूप और सहायक अन्य सभी कार्य करने के लिए।

2. अधिसूचना की अनुसूची 'ख' के पैरा 3 के अनुसरण में भारत सरकार ने सामाजिक न्याय और अधिकारिता मंत्रालय में निधि के प्रबंधन और प्रशासन के लिए प्रबंधक मंडल का गठन किया है:

(i) सचिव
सामाजिक न्याय और अधिकारिता मंत्रालय
नई दिल्ली

अध्यक्ष

- | | |
|---|-----------------|
| (ii) वित्त सलाहकार
सामाजिक न्याय और अधिकारिता मंत्रालय
नई दिल्ली | सदस्य |
| (iii) संयुक्त सचिव
शिक्षा विभाग
मानव संसाधन विकास मंत्रालय,
नई दिल्ली | सदस्य |
| (iv) संयुक्त सचिव (स्वास्थ्य)
स्वास्थ्य और परिवार कल्याण मंत्रालय,
नई दिल्ली | सदस्य |
| (v) संयुक्त सचिव/महानिदेशक,
रोजगार एवं प्रशिक्षण,
श्रम मंत्रालय | सदस्य |
| (vi) उप महानिदेशक
(निःशक्तता प्रभाग)
सामाजिक न्याय और अधिकारिता मंत्रालय | सदस्य |
| (vii) श्री जे. एल. कौल, महा-सचिव,
अखिल भारतीय दृष्टिहीन परिसंघ,
बरेली भवन, नजदीक, राजीव गांधी कैसर
अस्पताल, सेक्टर-V, रोहिणी,
दिल्ली-110085 | सदस्य |
| (viii) श्री फुलेन्द्र चौधरी,
शिव शक्ति भवन, घोसी टोला,
मुंगेर, बिहार-811201 | सदस्य |
| (ix) श्री अशीष कुमार वंदोपाध्याय, पी एण्ड ओ
सहायता पुनर्वास,
हिन्दुस्तान पार्क, आसनसोल,
पश्चिम बंगाल-713304 | सदस्य |
| (x) श्री फैज अहमद फैज,
एफ-56/23, सर सैयद रोड, बाटला हाउस,
ओखला, नई दिल्ली-110025 | सदस्य |
| (xi) डॉ. (श्रीमती) रुक्मिणी कृष्णा स्वामी,
निदेशक,
कर्नाटक स्पास्टिक सोसाइटी, 31, 5वां क्रास-
5वां मुख्य इन्दिरा नगर, प्रथम स्टेज,
बंगलौर-560098, कर्नाटक | सदस्य |
| (xii) निदेशक/उप सचिव,
सामाजिक न्याय और अधिकारिता मंत्रालय,
नई दिल्ली | सचिव-कोषाध्यक्ष |

3. चार सदस्यों की न्यूनतम संख्या होगी, जिसमें से कम से कम दो गैर-सरकारी सदस्य होंगे। प्रत्येक मामले में निर्णय बहुमत से किया जाएगा। अध्यक्ष के पास निर्णायक मत होता।

4. बोर्ड, इसकी संरचना में किसी रिक्ति के बावजूद कार्य करेगा।

5. गैर-सरकारी सदस्यों का कार्यकाल, दो वर्ष अथवा नए गठित न्यास के साथ निधि के मिलाए जाने की स्थिति में ऐसे गठन की तारीख, जो भी पहले हो, होगा।

6. सभी गैर-सरकारी सदस्य समूह 'क' अधिकारियों के लिए लागू सरकारी नियमों के अनुसार यात्रा भत्ता/दैनिक भत्ता के पात्र होंगे।

7. अन्य सभी शर्तें समान रहेंगी।

[सं. 19-13/2003-डीडी-IV]

अनूप कुमार, निदेशक

MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT

New Delhi, the 18th September, 2006

S.O. 3989.—In partial modification of this Ministry's Notification No. 18-1/86-HW-III dated 17-9-1990, No. 19-3/92-DD-I dated 9-2-2001 and dated 22-1-2004 the National Handicapped Welfare Fund (re-named as National Fund for People with Disabilities) created by the erstwhile Ministry of Social Welfare *vide* Notification dated 11-8-1983 under the Charitable Endowments Act, 1980 (6 of 1980) was created with the following objects:—

- (i) To promote voluntary sector for creating services for the handicapped for prevention and early detection of disabilities, education, training, physical and economic rehabilitation of disabled persons; and
- (ii) to do all other things that are incidental and conducive to the above objects.

2. In terms of para 3 of Schedule "B" of the Notification the Government of India in the Ministry of Social Justice & Empowerment re-constitutes the Board of Management for the management and administration of the Fund as follows:—

- | | |
|--|----------|
| (i) Secretary | Chairman |
| Ministry of Social Justice & Empowerment | |
| New Delhi | |
| (ii) Financial Adviser | Member |
| Ministry of Social Justice & Empowerment | |
| New Delhi | |
| (iii) Joint Secretary | Member |
| Deptt. of Education | |
| Ministry of Human Resource Development | |
| New Delhi | |
| (iv) Joint Secretary (Health) | Member |
| Ministry of Human and Family Welfare | |
| New Delhi | |

(v) Joint Secretary/Director General
Employment and Training,
Ministry of Labour,
New Delhi

Member

(vi) Deputy Director General
(Disabled Division),
Ministry of Social Justice & Empowerment
New Delhi

Member

(vii) Shri J.L. Kaul, Secretary General,
All India Confederation of the Blind,
Baraille Bhavan,
Near Rajiv Gandhi Cancer Hospital
Sector-V, Rohini,
Delhi-110085.

Member

(viii) Shri Fulendra Choudhary,
Shiv Shakti Bhavan, Ghosi Tola,
Munger, Bihar-811201.

Member

(ix) Shri Ashish Kumar Bandopadhyay,
P&O Sahayata Rehabilitation,
Hindustan Park, Asansol,
West Bengal-713304,

Member

(x) Shri Faiz Ahmad Faiz,
F-56/23, Sir Syed Road, Batla House
Okhla, New Delhi-110025.

Member

(xi) Dr. (Mrs.) Rukmani Krishnaswami,
Director,
The Spastic Society of
Karnataka, 31, 5th cross, off-5th Main
Indira Nagar, 1st Stage,
Bangalore-550098.
Karnataka.

(xii) Director/Deputy Secretary
Ministry of Social Justice &
Empowerment, New Delhi.

Secretary-Treasurer

3. Not less than four members shall form a quorum out of which at least 2 should be non-officials. Every matter shall be determined by a majority of votes. Chairman shall have a casting vote.

4. The Board may function notwithstanding any vacancy in its constitution.

5. The tenure of non-official members shall be for two years or in the event of the fund being merged with a newly constituted Trust, the date of such constitution, whichever is earlier.

6. All non-official members shall be entitled to TA/DA as per the Government rules as applicable to Group "A" officers.

7. All other terms and conditions will remain the same.

[No. 19-13/2003-DD-IV]

ANOOP KUMAR, Director

विद्युत मंत्रालय

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 3990.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में केन्द्रीय विद्युत प्राधिकरण, नई दिल्ली तथा दामोदर घाटी निगम, कोलकाता के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है:

- (i) दक्षिण क्षेत्रीय विद्युत समिति
29, रेस कोर्स, क्रॉस रोड,
बैंगलूर-560009
- (ii) क्षेत्रीय विद्युत सर्वेक्षण कार्यालय,
केन्द्रीय विद्युत प्राधिकरण,
सी.जी.ओ. कॉम्प्लेक्स,
डी.एफ.ब्लॉक. साल्ट लेक,
कोलकाता-700064
- (iii) क्षेत्रीय विद्युत सर्वेक्षण कार्यालय,
केन्द्रीय विद्युत प्राधिकरण,
केन्द्रीय सदन, कोरमंगला,
बैंगलूर-560034
- (iv) कोनार पनबिजली केन्द्र,
दामोदर घाटी निगम,
अधीक्षण अभियंता (अ) का कार्यालय,
पश्चिमी क्षेत्र, दाबानि, कोनार,
जिला-हजारीबाग, झारखंड

[सं. 11017/2/2006-हिंदी]

हरीश चन्द्र, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 26th September, 2006

S.O. 3990.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (use for official purposes of the union) Rules, 1976 the Central Government hereby notifies the following offices under the administrative control of Central Electricity Authority, New Delhi and Damodar Valley Corporation, Kolkata, the staff whereof have acquired 80% working knowledge of Hindi :—

- (i) Southern Regional Power Committee,
29, Race Course, Cross Road,
Bangalore-560009
- (ii) Regional Power Survey Office,
Central Electricity Authority,
C.G.O. Complex, DF Block, Salt Lake,
Kolkata-700064

(iii) Regional Power Survey Office,
Central Electricity Authority,
Kendriya Sadan, Kormangla
Bangalore-560034

(iv) Konar Hydel Station,
Damodar Valley Corporation,
Office of the Surptendent Engineer©,
West Zone, DVC, Konar,
District-Hazaribagh, Jharkhand.

[No. 11017/2/2006-Hindi]

HARISH CHANDRA, Jt. Secy

जल संसाधन मंत्रालय

नई दिल्ली, 21 सितम्बर, 2006

का.आ. 3991.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में केन्द्रीय जल आयोग के निम्नलिखित कार्यालयों को, जिसके 80% कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

1. मध्य गंगा ऊपरी रामगंगा उप मण्डल, मुरादाबाद, उत्तर प्रदेश ।
2. नर्मदा तापी बेसिन संगठन, गांधीनगर, गुजरात ।
3. जल विज्ञानीय प्रेक्षण परिमण्डल, देहरादून, उत्तरांचल ।

[सं. 1/1/2005-हिंदी]

राजकुमारी दवे, संयुक्त निदेशक (रा.भा.)

MINISTRY OF WATER RESOURCES

New Delhi, the 21st September, 2006

S.O. 3991.—In pursuance of Sub-Rule(4) of rule (10) of the Official Language (Use for official purposes of the Union) The Central Government hereby notifies the following offices of Central Water Commission, the 80% staff whereof have acquired working knowledge of Hindi:—

1. Middle Ganga Upper Ram Ganga, Sub Division, Muradabad, Uttar Pradesh.
2. Narmada Tapi Basin Organisation, Gandhi Nagar, Gujarat.
3. Hydrological Observation Circle, Dehradun, Uttranchal.

[No. 1/1/2005-Hindi]

RAJKUMARI DAVE, Jt. Director(OL)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 3 अक्टूबर, 2006

का.आ. 3992.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन भारतीय खाद्य निगम के निम्नलिखित कार्यालय, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :-

1. जिला कार्यालय,
भारतीय खाद्य निगम,
कोट्टयम।

[सं. ई-11011/1/2001-हिन्दी]

अनीता चौधरी, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Food and Public Distribution)

New Delhi, the 3rd October, 2006

S.O. 3992.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices of Food Corporation of India under the administrative control of the Ministry of Consumer Affairs, Food and Public Distribution (Deptt. of Food and Public Distribution), whereof more than 80% of staff have acquired the working knowledge of Hindi :

1. District Office,
Food Corporation of India,
Kottayam.

[No.E-11011/1/2001-Hindi]

ANITA CHAUDHARY, Jt. Secy.

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 29 सितम्बर, 2006

का.आ. 3993.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के नियम 4 के उपनियम(5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं वे स्वीकृत कर दिए गए हैं :-

अनुसूची

क्रमलाइसेंस (वैधता) संख्यासंख्या	लाइसेंसधारी का नाम व पता संख्या	भारतीय मानक का शीर्षक	भा मा भाग	अनु	वर्ष
1. 7626582	18-06-2007 बायमर इलास्टोमर्स, जे 52, एमआईडीसी एरिया अंबड, नासिक, महाराष्ट्र 422010	एलपीजी रबड़ होज पाइप	09573		1998
2. 7622372	01-06-2007 इस्टवेल एस्बेस्टोस इंडस्ट्रीज प्राइवेट लिमिटेड, ओ.टी. सेक्शन, उल्हास नगर, महाराष्ट्र 421003	टेक्सटाइल-एसबेस्टोस यार्न	13362		1992
3. 7622170	01-06-2007 रौनक एन्टरप्राइजेज, प्लॉट संख्या 144, भगत कानधरम रोड, गुरुनानक दरबार के नजदीक, कोपरी टेलिफोन एक्सचेंज, महाराष्ट्र 400603	खाद्य रंग	05346		1994
4. 7622069	01-06-2007 जिंटा फूड एंड बेक्रेजेस, तल मंजिल, प्लॉट संख्या 13/ए/2, कामा इंडस्ट्रियल एस्टेट, संत रोहिदासानगर, बालभट लेन, गोरेगाँव (पूर्व) मुम्बई 400063 महाराष्ट्र	पैकेजबंद पेयजल	14543		2004
5. 7624578	12-06-2007 श्री विजय एग्रो इंडस्ट्रीज, 15/2 विजय कालोनी, अशोक बेकरी के सामने, जलगाँव महाराष्ट्र 425002	पैकेजबंद पेयजल	14543		2004

[संदर्भ सीएमडी-4/13:11]

एस. के. चौधरी, उप महानिदेशक (मुहर)

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 29th September, 2006

S.O. 3993.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the enclosed schedule

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and Address (factory) of the Party	Product	IS No./Part/Sec. Year
1.	7626582	18/06/2007	Bymer Elastomers, J-52, MIDC AREA AMBAD, Nashik Maharashtra-422010	Rubber hose for liquefied Petroleum gas (LPG)— Specification	IS: 9573 : 1998
2.	7622372	01/06/2007	Eastwell Asbestos Industries (P) Ltd. O.T. Section, Ulhasnagar Thane, Ulhasnagar Maharashtra-421003	Textiles-Asbestos Yarn— Specification	IS 13362 : 1992
3.	7622170	01/06/2007	Raunak Enterprises, Plot No. 144, Bhagat Kanwarram Road, Near Gura Nanak Darbar, Kopari Telephone Exchange Thane, Thane (E) Maharashtra 400603	Synthetic Food Colour— Preparaitons and mixtures- Specification	IS 5346 : 1994
4.	7622069	01/06/2007	Zinta Foods & Beverages, Ground Floor, Plot No. 13/A/II, Cama Indl. Estate, Sant Rohidas Nagar, Walbhat Lane Greater Bombay Goregaon (E), Maharashtra-400063	Packaged Drinking Water (other than Packaged Natural Mineral Water)—Specification	IS 14543 : 2004
5.	7624578	01/06/2007	Shree Vijaya Agro Industries, 15/2 Vijay Colony, Opp. Ashok Bakery Jalgaon, Maharashtra 425002	Packaged Drinking Water (other than Packaged Natural Mineral Water)—Specification	IS 14543 : 2004

[Ref. CMD-4/13:11]

S. K. CHAUDHURI, Dy. Director General (Marks)

नई दिल्ली, 4 अक्टूबर, 2006

का.आ. 3994.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हों, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 7587 (भाग 4) : 2006 खानों में वाईडिंग के लिए केज सस्पेंशन गियर विशिष्ट भाग 4 ब्राइडल चेन (पहला पुनरीक्षण)	आई एस 7587 (भाग 4) : 1975 खानों में वाईडिंग के लिए केज सस्पेंशन गियर विशिष्ट भाग 4 ब्राइडल चेन	31 अगस्त, 2006
2	आई एस 7587 (भाग 6) : 2006 खानों में वाईडिंग के लिए केज सस्पेंशन गियर विशिष्ट भाग 6 सुरक्षा वियोजन हुक (4 प्लेट टाइप) 80 और 100 kN क्षमता वाले (पहला पुनरीक्षण)	आई एस 7587 (भाग 6) : 1984 खानों में वाईडिंग के लिए केज सस्पेंशन गियर विशिष्ट भाग 6 सुरक्षा वियोजन हुक (4 प्लेट टाइप)	31 अगस्त, 2006
3	आई एस 13116:2006/आईएसओ 9294:1997 मृदा-प्रहस्तन मशीनरी-इंजन परीक्षण कोड-नेट पावर (दूसरा पुनरीक्षण)	आईएस 13116:1991/आईएसओ 9294:1989 मृदा-प्रहस्तन मशीनरी-इंजन परीक्षण कोड-नेट पावर (पहला पुनरीक्षण)	31 जुलाई, 2006
4	आई एस 14480:2006 भूमिगत कोयला खानों के लिए साइड डिस्चार्ज लोडर-सुरक्षा अपेक्षाएं, प्रचालन और रख-रखाव-रीति संहिता (पहला पुनरीक्षण)	आईएस 14480:1998 साइड विभरण भारवाहक प्रचालन और अनुरक्षण-रीति संहिता	31 जुलाई, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एम. ई. डी./जी-2:1]

सी. के. वेदा, वैज्ञा. 'एफ' एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 4th October, 2006

S.O. 3994.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1	IS 7587 (Part 4) : 2006 Cage suspension gear for winding in mines—Specification Part 4 Bridle chains (first revision)	IS 7587 (Part 4) : 2006 Cage suspension gear for winding in mines—Specification Part 4 Bride chains	31 August, 2006
2	IS 7587 (Part 6) : 2006 Cage suspension gear for winding in mines—Specification Part 6 safety detaching hooks (4 plates type) 80 and 100 kN capacity (first revision)	IS 7587 (Part 6) : 2006 Cage suspension gear for winding in mines—Specification Part 6 Satefy detaching hooks (4 Plates type)	31 August, 2006

(1)	(2)	(3)	(4)
3.	IS 13116:2006/ISO 9249:1997 Earth-moving machinery—Engine test code—net power (second revision)	IS 13116:1991/ISO 9249:1989 Earth-moving machinery—Engine test code—net power (first revision)	31 July, 2006
4.	IS 14480:2006 Side-discharge loaders for underground coalmines—safety requirements operation and maintenance—Code of practice (first revision)	IS 14480:1998 Side-dump loaders—Operation and maintenance—Code of practice	31 July, 2006

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, and Thiruvananthapuram.

[Ref : MED/G-2:1]

C. K. VEDA, Sc. 'F' & Head (Mechanical Engineering)

नई दिल्ली, 4 अक्टूबर, 2006

का.आ. 3995.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 362 : 1991	1 जुलाई, 2006	28 सितम्बर, 2006

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सी ई डी/राजपत्र]

ए. के. सैनी, वैज्ञा. 'एफ' एवं प्रमुख (सिविल इंजीनियरिंग)

New Delhi, the 4th October, 2006

S.O. 3995.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 362 : 1991	1, July, 2006	28 September 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, and Thiruvananthapuram.

[Ref : CED/Gazette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

नई दिल्ली, 4 अक्टूबर, 2006

का.आ. 3996.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 216:2006 कोल तार पिच—विशिष्ट (दूसरा पुनरीक्षण)	आई एस 216: 1961 कोल तार पिच—विशिष्ट (पुनरीक्षण)	जुलाई, 2006
2	आई एस 13360 (भाग 6/खण्ड 22) : 2006/ आई एस ओ 2578 : 1993 प्लास्टिक—परीक्षण पद्धतियाँ भाग 6 तापीय गुणधर्म खण्ड 22 ताप में दीर्घकृत अनावरण के बाद समय तापमान सीमाएं ज्ञात करना	कुछ नहीं	अगस्त 2006
3	आई एस 13360 (भाग 11/खण्ड 13) : 2006/ आई एस ओ 8570 : 1991 प्लास्टिक—परीक्षण पद्धतियाँ भाग 11 विशेष गुणधर्म खण्ड 13 फिल्म और शीटिंग कोल्डक्रैक तापमान ज्ञात करना	कुछ नहीं	अगस्त 2006
4	आई एस 13360 (भाग 2/खण्ड 10) : 2006/ आई एस ओ 10724-1 : 1998 प्लास्टिक—परीक्षण पद्धतियाँ भाग 2 नमूने लेना और परीक्षण नमूने तैयार करना खंड 10 ताप दृढ़ पाउडर संकचन घटकों (पी एम सी) के परीक्षण नमूनों का अन्तःक्षेपण संकचन—सामान्य सिद्धांत तथा बहुदेशीय परीक्षण नमूनों का संकचन	कुछ नहीं	अगस्त 2006
5	आई एस 13360 (भाग 2/खण्ड 11) : 2006/ आई एस ओ 10724-2 : 1998 प्लास्टिक—परीक्षण पद्धतियाँ भाग 2 नमूने लेना और परीक्षण नमूने तैयार करना खंड 11 ताप दृढ़ पाउडर संकचन घटकों (पी एम सी) के परीक्षण नमूनों का अन्तःक्षेपण संकचन—छोटी प्लेटें	कुछ नहीं	अगस्त 2006
6	आई एस 13360 (भाग 11/खण्ड 15) : 2006/ आई एस ओ 12058-1 : 1997 प्लास्टिक—परीक्षण पद्धतियाँ भाग 11 विशेष गुणधर्म खंड 15 फालिंग बाल श्यानता मापी के प्रयोग से श्यानता ज्ञात करना आनत ट्यूब पद्धति	कुछ नहीं	अगस्त 2006
7	आई एस 13360 (भाग 6/खण्ड 23) : 2006/ आई एस ओ 9773 : 1998 प्लास्टिक—परीक्षण पद्धतियाँ भाग 6 तापीय गुणधर्म खंड 23 छोटी ज्वाला के दहन स्रोत के सम्पर्क में पतले नम्य उर्ध्वाधर नमूनों का ज्वलन व्यवहार ज्ञात करना	कुछ नहीं	अगस्त 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पी. सी. डी./जी-7 (गजट)]

डॉ. डी. के. चौधरी, वैज्ञा. 'एफ' एवं प्रमुख (पेट्रोल, कोयला व संबंधित उत्पाद)

New Delhi, the 4th October, 2006

S.O. 3996.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 216 : 2006 Coal Tar Pitch—Specification (second revision)	IS 216 : 1961 Specification for Coal Tar Pitch (revised)	July 2006
2.	IS 13360 (Part 6/Sec 22) : 2006/ISO 2578 : 1993 Plastics—Methods of Testing Part 6 Thermal Properties Section 22 Determination of Time- Temperature Limits After Prolonged Exposure to Heat	None	August 2006
3.	IS 13360 (Part 11/Sec 13) : 2006/ISO 8570 : 1991 Plastics—Methods of Testing Part 11 Special Properties Section 13 Film and Sheeting —Determination of Cold-Crack Temperature	None	August 2006
4.	IS 13360 (Part 2/Sec 10) : 2006/ISO 10724-1 : 1998 Plastics—Methods of Testing Part 2 Sampling and Preparation of Test Specimens Section 10 Injection Moulding of Test Specimens of Thermosetting Powder Moulding Compounds (PMCs)-General Principles and Moulding of Multipurpose Test Specimens	None	August 2006
5.	IS 13360 (Part 2/Sec 11) : 2006/ISO 10724-2 : 1998 Plastics—Methods of Testing Part 2 Sampling and Preparation of Test Specimens Section 11 Injection Moulding of Test Specimens of Thermosetting Powder Moulding Compounds (PMCs)—Small Plates	None	August 2006
6.	IS 13360 (Part 11/Sec 15) : 2006/ISO 12058-1 : 1997 Plastics—Methods of Testing Part 11 Special Properties Section 15 : Determination of viscosity using a falling ball viscometer— Inclined tube method	None	August 2006
7.	IS 13360 (Part 6/Sec 23) : 2006/ISO 9773 : 1998 Plastics—Methods of Testing Part 6 Thermal Properties Section 23 Determination of Burning	None	August 2006

(1)	(2)	(3)	(4)
Behaviour of Thin Flexible Vertical Specimens in Contact with Small-Flame Ignition Source			

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. PCD/G-7 (Gazette)]

Dr. D. K. CHAUDHURI, Sc. F & Head (PCD)

नई दिल्ली, 4 अक्टूबर, 2006

का. आ. 3997.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	IS 7123 : 2006 बालों का तेल — विशिष्ट (दूसरा पुनरीक्षण)	संशोधन संख्या 5, सितम्बर, 2006	तत्काल प्रभाव से

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पीसीडी/जी-7 (गजट)]

डॉ. डी. के. चौधरी, वैज्ञ. एफ एवं प्रमुख (पेट्रोल, कोयला व सम्बन्धित उत्पाद)

New Delhi, the 4th October, 2006

S.O. 3997.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 7123 : 2006 Hair Oils— Specification (second revision)	Amendment No. 5, September, 2006	With immediate effect

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, and Thiruvananthapuram.

[Ref : PCD/G-7 (Gazette)]

Dr. D. K. CHAUDHURI, Sc. F & Head (PCD)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 6 अक्टूबर, 2006

फा. आ. 3998.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मुन्द्रा (गुजरात) से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इस से उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एफ. ए. बाबी. सक्षम प्राधिकारी, मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन, हिन्दुस्तान पेट्रोलियम कोर्पोरेशन लिमिटेड एच.पी.सी.एल. कंडला टर्मिनल -2, बंगलोड़ा -1, खारी रोहर, गांधीदाम -370 240, कच्छ, (गुजरात), को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तालुका : अमीरगढ़		जिला : बनासकांठ		राज्य : गुजरात		
क्रम सं.	गाँव का नाम	असरा सं.	उप खण्ड सं.	क्षेत्रफल		
1	2	3	4	हेक्टेयर	एयर	वर्ग मीटर
1.	जेदी	95	अ10 पी 6	00	05	58
		118+122		00	03	50
2.	उमरकोट	83	पी1	0	02	10
3.	इकबालगढ़	45	पी1	0	01	00
		36	पी1	0	00	50
		36	2पी3	0	02	88
		36	2पी1	0	03	26
4.	दभेला	42	पी2	0	07	27
5.	गधडा	103	पी3	0	04	52
		103	पी6	0	05	97
		103	पी2	0	05	17

[फा. सं. आर-31015/41/2004 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 6th October, 2006

S. O. 3998.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mundra (Gujarat) to Delhi, a pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri F. A. Babi Competent Authority, Mundra-Delhi Petroleum Product Pipeline, Hindustan Petroleum Corporation Limited, HPCL Kandla Terminal-2, Bungalow No.-1, Khari Rohar, Gandhidham -370 240, Kutch (Gujarat).

SCHEDULE

Taluk : AMIRGADH		District : BANASKANTHA		State : GUJARAT		
Sr. No	Name of Village	Survey no.	Sub-Division No.	Area		
				Hectare	Are	Sq.mtr.
1	2	3	4	5	6	7
1.	JETHI	95	A10 P6	00	05	58
		118+122		00	03	50
2.	UMARKOT	83	P1	0	02	10
3.	IQBALGADH	45	P1	0	01	00
		36	P1	0	00	50
		36	2P3	0	02	88
		36	2P1	0	03	26
4.	DABHELA	42	P2	0	07	27
5.	GADHADA	103	P3	0	04	52
		103	P6	0	05	97
		103	P2	0	05	17

[F.No. R-31015/41/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 9 अक्टूबर, 2006

का. आ. 3999.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मुन्द्रा (गुजरात) से दिल्ली तक पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इस से उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एफ. ए. बाबी. सक्षम प्राधिकारी, मुन्द्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड एच.पी.सी.एल. कंडला र्मिनल -2, बंगलोड़ा -1, खारी रोहर, गांधीग्राम -370 240, कच्छ, (गुजरात), को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तालुका : कांकरेज		जिला : बनासकांठ		राज्य : गुजरात		
क्रम सं.	गाँव का नाम	खसरा सं.	उप खण्ड सं.	क्षेत्रफल		
				हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6	7
1.	मांडला	588		0	20	20
2.	धली (मंगापुर)	1	पी18	0	20	20
		1	पी19	0	11	80
		1	पी17	0	28	35
3.	कम्बोड़	820	पी2	0	08	07
		1698		0	25	66
		1697	2	0	00	40
		1699		0	15	32
		1749	1पी1	0	06	54
4.	रानेर	1156		0	03	69
		1134		0	03	11
		1110		0	02	50
		1111		0	02	05

[फा. सं. आर-31015/38/2004 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 9th October, 2006

S. O. 3999.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mundra (Gujarat) to Delhi, a pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri F. A. Babi Competent Authority, Mundra-Delhi Petroleum Product Pipeline, Hindustan Petroleum Corporation Limited, HPCL Kandla Terminal-2, Bungalow No.-1, Khari Rohar, Gandhidham -370 240, Kutch (Gujarat).

SCHEDULE

Taluk : KANKREJ		District : BANASKANTHA		State : GUJARAT		
Sr. No	Name of Village	Survey no.	Sub-Division No.	Area		
				Hectare	Are	Sq.mtr.
1	2	3	4	5	6	7
1.	MANDLA	588		0	20	20
2.	THALI(GANGAPUR)	1	P18	0	20	20
		1	P19	0	11	80
		1	P17	0	28	35
3.	KAMBOI	820	P2	0	08	07
		1698		0	25	66
		1697	2	0	00	40
		1699		0	15	32
		1749	1P1	0	06	54
4.	RANER	1156		0	03	69
		1134		0	03	11
		1110		0	02	50
		1111		0	02	05

[F. No. R-31015/38/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 9 अक्टूबर, 2006

का. आ. 4000.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 432 तारीख 04 फरवरी, 2005, जो भारत के राजपत्र तारीख 5 फरवरी, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए मुंबई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 12 मार्च, 2005 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा ।

अनुसूची

तहसील : झालरापाटन		जिला : झालावाड़	राज्य : राजस्थान
क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1	गिन्दोर	457	0.0072
		387	0.0020
		327	0.0045
2	चौदिया खेड़ी	158	0.0326
3	मालीपुरा	257	0.0341
		275	0.0244
4	झालरापाटन	887	0.1699

[फा. सं. आर-31015/77/2004 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 9th October, 2006

S. O. 4000.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O.432, dated 4th February, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 5th February, 2005, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai-Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh, to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 12th March, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

TEHSIL : JHALARAPATAN DISTRICT : JHALAWAR STATE : RAJASTHAN			
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
1	2	3	4
1	GINDHOR	457	0.0072
		387	0.0020
		327	0.0045
2	CHANDIA KHEDI	158	0.0326
3	MALIPURA	257	0.0341
		275	0.0244
4	JHALARAPATAN	887	0.1699

[F. No. R-31015/77/2004-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 9 अक्टूबर, 2006

का. आ. 4001.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश में मांगल्या (इन्दौर) संस्थापन से हरयाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री दीपक नन्दी, सक्षम प्राधिकारी, मुम्बई-मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, बी-105, इन्द्र विहार, तलवंडी, कोटा - 324005 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : झालरापाटन		जिला : झालावाड़	राज्य : राजस्थान
क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1	चंगेरी	68	0.0468
		71	0.1080
		72	0.0576
		62	0.0560
		61	0.0060
		60	0.0060
		59	0.0070
		57	0.0050
		34	0.1368
		35	0.1008
		36	0.0500
		39	0.0150
		278	0.1512
		63	0.3000

[फा. सं. आर-31015/77/2004 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 9th October, 2006

S. O. 4001.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Deepak Nandi, Competent Authority, Mumbai-Manglya Pipeline Extension Project, Bharat Petroleum Corporation Limited, B-105, Indravihar, Talwandi, Kota-324005 (Rajasthan).

SCHEDULE

TEHSIL : JHALARAPATAN		DISTRICT : JHALAWAR	STATE : RAJASTHAN
S.No.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
1	2	3	4
1	CHANGERI	68	0.0468
		71	0.1080
		72	0.0576
		62	0.0560
		61	0.0060
		60	0.0060
		59	0.0070
		57	0.0050
		34	0.1368
		35	0.1008
		36	0.0500
		39	0.0150
		278	0.1512
		63	0.3000

[F. No R-31015/77/2004-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 9 अक्टूबर, 2006

का. आ. 4002.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश में मांगल्या (इन्दौर) संस्थापन से हरयाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50), की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियों साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिये उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री दीपक नन्दी, सक्षम प्राधिकारी, मुम्बई-मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, बी-105, इन्द्र विहार, तलवंडी, कोटा - 324005 (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : झालरापाटन		जिला : झालावाड़	राज्य : राजस्थान
क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हैक्टेयर में
1	2	3	4
1	सेमली पटपड़िया	69	0.4980
2	गोविन्दपुरा	79	0.1780

[फा. सं. आर-31015/77/2004 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 9th October, 2006

S. O. 4002.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Deepak Nandi, Competent Authority, Mumbai-Manglya Pipeline Extension Project, Bharat Petroleum Corporation Limited, B-105, Indravihar, Talwandi, Kota-324005 (Rajasthan).

SCHEDULE

TEHSIL : JHALARAPATAN		DISTRICT : JHALAWAR		STATE : RAJASTHAN	
S.No.	NAME OF VILLAGE	SURVEY NO.		AREA IN HECTARE	
1	2	3		4	
1	SEMLI PATPADIA	69		0.4980	
2	GOVINDPURA	79		0.1780	

[F.No. R-31015/77/2004-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 11 अक्टूबर, 2006

संशोधन

का. आ. 4003.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि राजस्थान राज्य में विजयपुर-कोटा एवं स्पर पाइपलाइनों द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) के अधीन विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के लिये पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 2313, 2314 एवं 3959 दिनांक 22/06/2005 एवं 24/10/2005 क्रमशः द्वारा जारी की थी;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह समाधान हो जाने पर कि लोकहित में ऐसा करना आवश्यक है, यह निर्देश देती है कि नीचे वर्णित सारणी में विनिर्दिष्ट भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 2313, 2314 एवं 3959 दिनांक 22/06/2005 एवं 24/10/2005 क्रमशः में से उक्त अनुसूची की तत्स्थानी प्रविष्टि में विनिर्दिष्ट रीति से संशोधन किया जा सकेगा।

शुद्धि-पत्र

भारत के राजपत्र सं. 27 दिनांक 02/07/2005 के का.आ. सं. 2313 व 2314 दिनांक 22/06/2005 में पृष्ठ सं. 6667, 6668, 6670, 6671, 6677, 6678, 6684 एवं 6685 पर.

राजपत्र के अनुसार			पढ़िये		
गाँव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)	गाँव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)
काचरी	349	0.2140	काचरी	349	0.0180
	347	0.1720		347	0.0576
	355	0.7940		355	निरस्त
	345	0.1280		345	निरस्त
	349/429	0.1560		349/429	निरस्त
	346	0.2890		346	निरस्त
	335	0.4340		335	निरस्त
	334	0.4950		334	निरस्त
	425/477	0.0830		425/477	निरस्त

राजपत्र के अनुसार			पढ़िये		
गाँव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)	गाँव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)
तामखेड़ा	250	0.7290	तामखेड़ा	250	0.2384
	241	0.2260		241	निरस्त
	242	0.4470		242	निरस्त
	252	0.5400		252	निरस्त
	251	0.1470		251	निरस्त
	246	0.4500		246	निरस्त
	259	0.0020		259	निरस्त
	266/781	0.0420		266/781	निरस्त
	266	0.0100		266	निरस्त
	265	0.0040		265	निरस्त
चकशाहबाद	180	0.0720	चकशाहबाद	180	निरस्त
	179	0.0970		179	निरस्त
मोरपा	59	0.1270	मोरपा	59	0.0660
	58	0.0820		58	0.0020
	16	0.2240		16	0.1280
	2	0.5830		2	0.4200
	14	0.0450		14	निरस्त
	51	0.1320		51	निरस्त
रसुलपुर	251	0.1630	रसुलपुर	251	0.0330
	248	0.0660		248	0.0260
	133	0.0860		133	0.0020
	249	0.0160		249	निरस्त
	132	0.0370		132	निरस्त

भारत के राजपत्र सं. 44 दिनांक 29/10/2005 के का.आ. सं. 3959 दिनांक 24/10/2005 में पृष्ठ सं. 11832 एवं 11833 पर

राजपत्र के अनुसार			पड़िये		
गाँव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)	गाँव	सर्वे नं.	क्षेत्रफल (हेक्ट. में)
पाचडा	270	0.1900	पाचडा	270	0.1470
	268	0.5400		268	निरस्त
	37	0.1400		37	निरस्त
	254	0.0120		254	निरस्त

[फा. सं. एल-14014/16/2006-जी.पी.]

दीपक रतनपाल, अवर सचिव

New Delhi, the 11 October, 2006

Amendment

S. O. 4003.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Vijaipur – Kota and spur pipelines in the State of Rajasthan, a pipeline should be laid by the GAIL (India) Limited;

And whereas, the Central Government in the Ministry of Petroleum and Natural Gas issued notification no. S.O. 2313, 2314 and 3959 dated 22/06/2005 and 24/10/2005 respectively under sub-section (1) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) for acquisition of right of user in the land specified;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government, being satisfied that it is necessary in the public interest, hereby directs that the notification no. S.O. 2313, 2314 and 3959 dated 22/06/2005 and 24/10/2005 respectively as specified in the schedule mentioned below, may be amended in the manner specified in the corresponding entry in the said schedule.

CORRIGENDUM

In the Gazette of India No. 27 dated 02-07-2005 vide S.O. No. 2313 and 2314 dated 22-06-2005 on Page No. 6667, 6668, 6670, 6671, 6677, 6678, 6684 and 6685

<u>As per Gazette</u>			<u>Be read as</u>		
Village	Survey No.	Area (in Hect.)	Village	Survey No.	Area (in Hect.)
Kachari	349	0.2140	Kachari	349	0.0180
	347	0.1720		347	0.0576
	355	0.7940		355	Deleted
	345	0.1280		345	Deleted
	349/429	0.1560		349/429	Deleted
	346	0.2890		346	Deleted
	335	0.4340		335	Deleted
	334	0.4950		334	Deleted
	425/477	0.0830		425/477	Deleted

<u>As per Gazette</u>			<u>Be read as</u>		
Village	Survey No.	Area (in Hect.)	Village	Survey No.	Area (in Hect.)
Tamkheda	250	0.7290	Tamkheda	250	0.2384
	241	0.2260		241	Deleted
	242	0.4470		242	Deleted
	252	0.5400		252	Deleted
	251	0.1470		251	Deleted
	246	0.4500		246	Deleted
	259	0.0020		259	Deleted
	266/781	0.0420		266/781	Deleted
	266	0.0100		266	Deleted
	265	0.0040		265	Deleted
Chaksahabad	180	0.0720	Chaksahabad	180	Deleted
	179	0.0970		179	Deleted
Morpa	59	0.1270	Morpa	59	0.0660
	58	0.0820		58	0.0020
	16	0.2240		16	0.1280
	2	0.5830		2	0.4200
	14	0.0450		14	Deleted
	51	0.1320		51	Deleted
Rasulpur	251	0.1630	Rasulpur	251	0.0330
	248	0.0660		248	0.0260
	133	0.0860		133	0.0020
	249	0.0160		249	Deleted
	132	0.0370		132	Deleted

In the Gazette of India No. 44 dated 29-10-2005 vide S.O. No. 3959 dated 24-10-2005 on Page No. 11832 and 11833

<u>As per Gazette</u>			<u>Be read as</u>		
Village	Survey No.	Area (in Hect.)	Village	Survey No.	Area (in Hect.)
Pachada	270	0.1900	Pachada	270	0.1470
	268	0.5400		268	Deleted
	37	0.1400		37	Deleted
	254	0.0120		254	Deleted

[F. No. L-14014/16/2006-G.P.]
DEEPAK RATTANPAL, Under Secy.

नई दिल्ली, 11 सितम्बर, 2006

का. आ. 4004.— केन्द्रीय सरकार को लोक हित में यह आवश्यक प्रतीत होता है कि उत्तरप्रदेश राज्य में दादरी से हरियाणा राज्य में पानीपत तक, प्राकृतिक गैस के परिवहन के लिए इण्डियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा “आर.-एल.एन.जी. स्पर पाइपलाइन” के कार्यान्वयन हेतु एक शाखा पाइपलाइन विछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन विछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन विछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितवद्ध है, उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन विछाने के संबंध में श्री वीरेन्द्र कुमार गुप्ता, वरिष्ठ भूमि अर्जन अधिकारी / सक्षम प्राधिकारी, इण्डियन ऑयल कॉर्पोरेशन लिमिटेड, आर-2/18, राज नगर, गाज़ियाबाद (उत्तर प्रदेश), को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : बागपत	जिला : बागपत	राज्य : उत्तर प्रदेश		
गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
1. चमरावल	1329	0	02	08
	1328	0	00	36
	1327	0	08	82
	1326	0	06	48
	1325	0	13	68
	1324	0	07	20
	1322	0	00	36
	1323	0	07	47
	1315	0	15	30
	1314	0	09	72
	981	0	02	40
	979	0	02	40

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
1. चरखल	977	0	01	26
	974	0	19	98
	975	0	28	44
2. खासपुर	605	0	05	40
	571	0	17	64
	572	0	05	06
	570	0	15	30
	556	0	00	36
	557	0	00	54
	537	0	00	24
	538	0	08	54
	539	0	00	48
	541	0	42	66
	542	0	00	54
	543	0	00	36
	547	0	05	12
	532	0	00	54
	533	0	00	36
	529	0	13	12
	526	0	02	52
	527	0	00	36
	523	0	13	76
	522	0	15	12
	518	0	00	36
	519	0	00	54
	515	0	05	72
	514	0	03	52
	512	0	08	52
	511	0	09	00
	453	0	13	32
	455	0	01	10
	454	0	06	04
	471	0	00	40
	464	0	00	36
	465	0	00	54

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
2. रवासपुर	470	0	04	86
	469	0	04	86
	468	0	05	04
	467	0	05	22
	466	0	03	24
	501	0	05	58
	317	0	03	60
	8	0	00	57
	6	0	03	99
	7	0	02	56
	5	0	05	76
	4	0	03	36
	3	0	01	80
	1	0	00	36
3. पांची	587	0	15	33
	586	0	05	35
	585	0	05	35
	584	0	06	06
	581	0	01	66
	579	0	04	01
	580	0	05	27
	577	0	00	71
	561	0	05	17
	560	0	01	78
	559	0	05	70
	557	0	05	35
	556	0	06	59
	555	0	11	76
	483	0	01	07
	481	0	00	53
	480	0	00	48
	482	0	00	48
	479	0	13	82
	478	0	08	20
4. उकावली	201	0	12	47
	202	0	00	89

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
4. उकावली (जारी)	203	0	01	07
	204	0	00	53
	205	0	00	53
	207	0	00	36
	208	0	38	23
	209	0	00	30
	210	0	01	02
	214	0	00	53
	215	0	00	53
	249	0	23	82
	248	0	00	36
	220	0	21	74
	253	0	00	53
	221	0	00	36
	222	0	15	15
	247	0	00	53
	248	0	00	36
	245	0	23	19
	243	0	00	36
	242	0	11	40
	225	0	01	58
	226	0	06	32
	104	0	05	15
	103	0	27	34
	100	0	01	43
	107	0	00	99
	108	0	09	09
	102	0	13	36
	101	0	10	69
	98	0	00	36
	93	0	02	84
	95	0	27	80
	96	0	08	08
	64	0	00	71
	25	0	05	88
	26	0	00	53

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
4. उज्जयिनी (गारी...)	27	0	39	92
	29	0	10	51
	30	0	14	43
	31	0	00	36
	32	0	07	52
	33	0	00	20
	34	0	00	20
	6	0	00	20
	5	0	11	40
	24	0	00	53
5. खट्टा प्रह्लादपुर	2460	0	22	32
	2458	0	00	66
	2457	0	00	44
	2446	0	31	32
	2437	0	00	66
	2436	0	26	63
	2435	0	03	12
	2448	0	00	36
	554	0	02	56
	553	0	02	79
	552	0	01	80
	551	0	00	54
	528	0	00	20
	521	0	28	80
	520	0	06	80
	518	0	00	20
	519	0	00	20
	514	0	00	44
	513	0	00	66
	505	0	06	30
	504	0	21	60
	496	0	00	44
	495	0	00	66
	494	0	08	64
	490	0	11	43
	489	0	00	60

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
5. खट्टा प्रहलादपुर (आजी...)	488	0	00	44
	487	0	00	66
	481	0	02	40
	480	0	07	20
	479	0	03	69
	477	0	00	48
	476	0	07	56
	468	0	00	45
	467	0	00	28
	453	0	00	72
	452	0	00	64
	458	0	01	04
	451	0	01	60
	450	0	11	16
	449	0	13	32
	448	0	00	20
	447	0	06	12
	443	0	00	20
	446	0	05	94
	444	0	00	36
	299	0	03	24
	294	0	04	50
	293	0	17	82
	200	0	02	31
	376	0	00	63
	374	0	29	16
	351	0	00	48
	348	0	10	53
	347	0	11	79
	344	0	00	72
	340	0	00	48
	332	0	01	52
	333	0	08	28
	334	0	07	74
	335	0	00	84
	331	0	17	28

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
5. रवट्टा प्रह्लादपुरा	330	0	00	72
	329	0	16	02
	324	0	00	48
	323	0	11	16
	322	0	00	48
	321	0	00	72
	318	0	02	75
	317	0	00	45
6. पावला बेगमाबाद	1255	0	01	43
	1253	0	15	68
	1161	0	02	08
	1162	0	11	32
	1168	0	07	97
	1167	0	00	20
	1169	0	07	93
	1214	0	09	98
	1213	0	10	31
	1212	0	00	63
	1178	0	01	31
	1181	0	08	17
	1182	0	18	17
	1183	0	01	66
	1127	0	00	95
	1126	0	01	27
	1125	0	00	95
	1055	0	02	49
	1049	0	04	99
	1048	0	05	71
	1050	0	00	24
	1047	0	01	90
	1046	0	03	92
	1045	0	06	95
	1042	0	09	78
	1038	0	00	35
	1041	0	01	58
	1040	0	08	37

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
6. पावला बेगमाबाद (ग्रामी)	1010	0	00	20
	1039	0	01	74
	1011	0	08	32
	1014	0	03	64
	1012	0	00	20
	1013	0	12	39
	1003	0	00	20
	1006	0	02	06
	1004	0	06	77
	995	0	00	20
	996	0	14	21
	997	0	00	53
	999	0	00	32
	960	0	02	67
	959	0	05	70
	958	0	12	12
	957	0	03	17
	729	0	09	98
	728	0	00	32
	727	0	00	20
	998	0	02	85
7. बसा टीकरी	207	0	01	43
	216	0	01	31
	229	0	00	89
	228	0	03	08
	227	0	04	45
	226	0	02	67
	218	0	01	29
	219	0	03	10
	220	0	01	53
	221	0	00	20
	215	0	00	89
	214	0	04	64
	212	0	00	36
	209	0	03	74
	210	0	13	43

गोंव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
7. बसा टीकरी (जारी...)	211	0	01	07
	206	0	00	89
	205	0	00	36
	204	0	15	33
	203	0	00	71
	201	0	09	75
	202	0	00	87
	199	0	00	36
	198	0	17	82
	197	0	21	56
	196	0	00	20
8. गौरीपुर	338	0	00	36
	511	0	13	90
	508	0	00	20
	507	0	02	38
	506	0	05	44
	505	0	05	35
	510	0	00	53
	504	0	02	57
	503	0	00	36
	502	0	14	70
	500	0	14	61
	491	0	03	65
	490	0	04	28
	489	0	04	28
	441	0	00	53
	379	0	14	25
	380	0	11	05
	366	0	00	53
	365	0	23	34
	363	0	19	25
	361	0	00	53
	360	0	00	36
	358	0	01	78
	357	0	22	45
	393	0	00	36

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
8. मीरीपुर (आरी...)	96	0	00	71
	95	0	00	71
	94	0	00	71
	50	0	00	36
	67	0	01	67
	66	0	00	53
	63	0	10	69
	62	0	00	53
	61	0	00	36
	57	0	00	20
	56	0	01	58
	55	0	05	26
	54	0	16	39
	53	0	04	73
	52	0	01	74
	51	0	00	36
	46/526	0	00	20
	46/527	0	01	96
	45	0	00	89
9. हबीबपुर मजरा	163	0	00	89
	164	0	13	90
	319	0	01	07
	165	0	13	72
	329	0	02	78
	335	0	00	44
	336	0	03	88
	337	0	07	84
	338	0	07	84
	339	0	04	37
	377	0	00	53
	378	0	00	36
	389	0	00	20
	394	0	00	20
	395	0	12	75
	396	0	09	62
	397	0	10	34

गौव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
9. टबीबपुर मण्डरा (भारी...)	405	0	00	48
	409	0	00	62
	410	0	00	20
	411	0	08	29
	412	0	00	48
	414	0	00	36
	415	0	00	20
	416	0	03	80
	417	0	00	36
	418	0	05	70
	419	0	00	20
	404	0	00	53
10. भीतली	1915	0	01	42
	1917	0	07	13
	1912	0	05	70
	865	0	03	03
	864	0	00	83
	863	0	09	98
	862	0	00	36
	856	0	09	98
	849	0	00	36
	848	0	00	54
	832	0	04	14
	831	0	03	87
	829	0	17	46
	827	0	03	60
	825	0	00	54
	817	0	00	20
	816	0	09	00
	815	0	06	80
	814	0	04	08
	813	0	00	86
	812	0	02	25
	818	0	00	36
	787	0	23	40
	786	0	19	08

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	785	0	00	36
	784	0	00	54
	679	0	07	38
	680	0	00	36
	685	0	04	68
	686	0	04	68
	688	0	00	20
	687	0	00	56
	689	0	00	24
	684	0	00	80
	683	0	03	96
	526	0	01	26
	525	0	00	54
	522	0	13	86
	521	0	01	76
	520	0	06	40
	468	0	00	54
	467	0	00	36
11. बली	1058	0	03	48
	1057	0	07	92
	1055	0	00	53
	1052	0	14	79
	1053	0	00	36
	1046	0	08	91
	1047	0	00	53
	1045	0	00	87
	1059	0	00	95
	1060	0	03	48
	1120	0	00	95
	1117	0	01	39
	1115	0	00	66
	1114	0	00	35
	1113	0	13	89
	1112	0	00	53

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	1111	0	00	36
	1108	0	01	19
	1107	0	06	41
	1105	0	00	20
	1106	0	00	20
	1104	0	06	28
	1094	0	03	36
	1095	0	22	99
	1092	0	03	17
	1091	0	00	36
	1090	0	00	54
	1087	0	16	02
	1083	0	00	36
	1084	0	00	53
	1078	0	00	32
	1086	0	00	20
	1077	0	14	79
	1075	0	00	36
	1073	0	00	30
	1074	0	22	89
	1071	0	00	89
	1068	0	00	30
	1069	0	00	45
	1070	0	00	30
	402	0	01	60
	404	0	03	39
	405	0	11	23
	406	0	08	02
	407	0	00	77
	420	0	00	95
	419	0	00	20
	401	0	00	36
	400	0	02	14
	278	0	00	36

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	293	0	06	42
	294	0	20	50
	295	0	00	20
	291	0	00	36
	290	0	00	53
	289	0	03	48
	288	0	06	42
	287	0	00	20
	286	0	10	69
	285	0	03	56
	280	0	00	48
	282	0	18	81
	281	0	00	51
	276	0	08	91
	266	0	01	19
	265	0	00	48
	247	0	22	45
	242	0	00	32
	248	0	08	35
	241	0	00	36
	232	0	00	83
	231	0	07	00
	230	0	02	38
	229	0	14	74
	228	0	00	32
	227	0	00	55
	182	0	00	79
	181	0	00	55
	180	0	00	83
	178	0	00	83
	179	0	01	78
	41	0	14	26
	45	0	01	96
	44	0	13	54

गौव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	35	0	00	36
	33	0	00	20
	34	0	08	02
	46	0	00	40
	47	0	00	59
	56	0	00	69
	55	0	12	99
	52	0	06	77
	51	0	00	40
	50	0	10	71
	59	0	00	40
	60	0	00	59
	65	0	01	11
	61	0	13	62
	62	0	07	13
	63	0	00	71
	17	0	00	95
	18	0	00	48
	10	0	00	53
	9	0	08	43
	8	0	00	20
	7	0	00	99
12. पुदली ब्रह्मनाम	212	0	09	80
	211	0	06	77
	213	0	00	54
	214	0	10	44
	176	0	01	16
	174	0	01	48
	215	0	09	05
	206	0	00	20
	207	0	00	87
	208	0	07	57
	216	0	00	20
	200	0	16	77

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	201	0	00	53
	198	0	08	05
	199	0	00	92
	193	0	01	31
	194	0	00	33
	195	0	10	36
	192	0	01	07
	196	0	00	20
	111	0	22	81
	110	0	04	28
	14	0	01	90
	18	0	15	51
	16	0	00	20
	17	0	00	20
	15	0	25	66
	6	0	40	99
	5	0	01	01
	3	0	20	16
	8	0	01	01
	9	0	00	40
	1	0	21	82
13. मुकारमपुर	90	0	00	20
	89	0	00	20
	85	0	00	71
	84	0	08	02
	83	0	10	34
	82	0	12	83
	81	0	00	53
	80	0	02	18
	79	0	06	68
	78	0	02	82
14. ग्यासरी उर्फ गाधी	302	0	06	77
	301	0	02	61
	300	0	00	87

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	299	0	05	60
	298	0	01	74
	297	0	17	29
	296	0	00	71
	295	0	00	89
	294	0	01	43
	267	0	34	17
	268	0	03	03
	266	0	02	14
	264	0	03	56
	265	0	01	07
	257	0	10	21
	258	0	14	01
	259	0	05	27
	262	0	00	20
	255	0	02	79
	256	0	06	56
	254	0	12	52
	253	0	25	66
15. नौरोजपुर गूजर	370	0	01	43
	369	0	02	14
	342	0	00	71
	340	0	22	99
	334	0	00	71
	337	0	09	44
	336	0	11	21
	335	0	01	51
	153	0	00	89
	156	0	09	80
	158	0	18	53
	157	0	09	98
	149	0	04	28
	147	0	19	60
	94	0	00	53

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	93	0	31	18
	92	0	00	89
	95	0	32	25
	145	0	00	53
	96	0	03	30
	97	0	30	12
	108	0	00	65
	86	0	02	83
	83	0	07	48
	82	0	13	72
	43	0	00	71
	42	0	02	38
	41	0	00	63
	40	0	34	22
	37	0	05	88
	38	0	01	66
16. सूजरा	562	0	01	80
	555	0	08	55
17. सखरपुर कलाँ	1979	0	00	20
	1978	0	12	02
	1971	0	00	55
	1977	0	00	20
	1976	0	10	69
	1975	0	03	70
	1952	0	00	55
	1974	0	08	67
	1966	0	01	07
	1965	0	00	20
	1964	0	09	27
	1962	0	00	44
	1963	0	03	39
	1794	0	00	83
	1961	0	03	83
	1795	0	07	48

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	1796	0	03	80
	1798	0	05	75
	1799	0	01	52
	1785	0	02	22
	1784	0	02	22
	1783	0	02	22
	1710	0	00	20
	1691	0	04	76
	1690	0	08	20
	1689	0	02	14
	1667	0	00	59
	1662	0	00	97
	1661	0	09	38
	1665	0	00	95
	1666	0	05	65
	1669	0	01	11
	1670	0	08	36
	1645	0	02	16
	1657	0	01	07
	1656	0	05	71
	1655/2090	0	00	20
	1655	0	28	56
	1654	0	01	78
	1644	0	00	53
	1633	0	02	18
	1610	0	21	21
	1609	0	00	48
	1608	0	00	71
	1606	0	00	49
	1607	0	14	22
	1598	0	31	90
	1581	0	04	99
	1580	0	25	66
	1573	0	00	71

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	1572	0	13	14
	1574	0	00	71
	949	0	00	53
	1317	0	11	56
	1315	0	00	36
	1314	0	00	53
	1312	0	28	44
	1313	0	12	12
	1311	0	09	00
	1310	0	00	71
	1296	0	29	58
	1293	0	09	98
	1225	0	07	48
	954	0	03	86
	1224/1996	0	00	20
	1224	0	29	98
	1227	0	00	55
	1228	0	00	53
	1261	0	00	20
	1260	0	32	26
	1259	0	05	44
	1258	0	00	69
16. खेड़की	321	0	04	28
	303	0	00	41
	302	0	13	63
	300	0	17	82
	301	0	00	20
	284	0	26	65
	285	0	11	40
	272	0	05	52
	271	0	17	64
	270	0	22	81
	267	0	01	11
	268	0	00	20

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	269	0	04	72
	232	0	00	53
	266	0	00	20
	265	0	15	52
	264	0	00	70
	233	0	14	97
	224	0	00	53
	223	0	21	03
	221	0	00	59
	220	0	22	14
	236	0	01	90
19. शिकोहपुर	167	0	01	35
	164	0	09	27
	156	0	00	53
	152	0	00	71
	151	0	43	13
	146	0	01	34
	150	0	01	58
20. ट्यौदी	950	0	27	26
	948	0	00	89
	947	0	00	53
	945	0	05	35
	944	0	00	36
	941	0	21	92
	921	0	04	28
	487	0	29	67
	488	0	00	89
	489	0	07	84
	490	0	07	13
	474	0	00	53
	472	0	23	52
	497	0	01	78
	497/994	0	02	38
	464	0	13	90

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	463	0	13	36
	444	0	00	89
	445	0	00	36
	448	0	12	47
	447	0	30	29
	288	0	00	20
	284	0	00	71
	287	0	03	70
	289	0	19	78
	290	0	06	95
	252	0	22	81
	247	0	00	36
	248	0	00	89
	251	0	01	25
	246	0	16	93
	245	0	09	98
	244	0	00	53
	242	0	23	88
	258	0	00	36
	259	0	00	71
	198	0	11	76
	199	0	00	36
	200	0	00	89
	203	0	02	49
	202	0	12	12
	201	0	04	45
	205	0	09	62
	207	0	00	53
	90	0	24	95
	89	0	31	90
	91	0	00	36
	92	0	00	53
	93	0	18	89
	94	0	23	80

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5
	53	0	02	22
	54	0	01	01
	55	0	00	67
	56	0	22	45
	57	0	00	20
	58	0	00	20
	32	0	00	20
	21	0	00	20
	22	0	07	13
	31	0	11	76
	23	0	14	97
	17	0	23	34
	15	0	04	99
	13	0	05	17
	12	0	01	11
21. राजपुर खामपुर	838	0	02	49
	807	0	31	54
	806	0	03	21
	810	0	00	20
	821	0	00	20
	805	0	39	56

[फा. सं. एल-14014/30/2006-जी.पी.]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 11 September, 2006

S. O. 4004.— Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of Natural Gas from Dadri in the State of Uttar Pradesh to Panipat in the State of Haryana " R-LNG Spur pipeline from Dadri to Panipat ", should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which the copies of this notification issued under sub-section(1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land, to Shri Birendra Kumar Gupta, Sr. Land Acquisition Officer/ Competent Authority, Indian Oil Corporation Limited, R - 2/18 Raj Nagar, Ghaziabad, (Uttar Pradesh).

SCHEDULE

Tehsil : Baghpat	District : Baghpat	State : Uttar Pradesh		
Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
1. CHAMRAWAL	1329	0	02	08
	1328	0	00	36
	1327	0	08	82
	1326	0	06	48
	1325	0	13	68
	1324	0	07	20
	1322	0	00	36
	1323	0	07	47
	1315	0	15	30
	1314	0	09	72
	981	0	02	40
	979	0	02	40
	977	0	01	26
	974	0	19	98
	975	0	28	44
2. KHASPUR	605	0	05	40
	571	0	17	64
	572	0	05	06
	570	0	15	30
	556	0	00	36
	557	0	00	54
	537	0	00	24
	538	0	08	54
	539	0	00	48
	541	0	42	66
	542	0	00	54
	543	0	00	36

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
2. KHASPUR (Contd...)	547	0	05	12
	532	0	00	54
	533	0	00	36
	529	0	13	12
	526	0	02	52
	527	0	00	36
	523	0	13	76
	522	0	15	12
	518	0	00	36
	519	0	00	54
	515	0	05	72
	514	0	03	52
	512	0	08	52
	511	0	09	00
	453	0	13	32
	455	0	01	10
	454	0	06	04
	471	0	00	40
	464	0	00	36
	465	0	00	54
	470	0	04	86
	469	0	04	86
	468	0	05	04
	467	0	05	22
	466	0	03	24
	501	0	05	58
	317	0	03	60
	8	0	00	57
	6	0	03	99
	7	0	02	56
	5	0	05	76
	4	0	03	36
	3	0	01	80
	1	0	00	36
3. PANCHI	587	0	15	33
	586	0	05	35
	585	0	05	35
	584	0	06	06

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	581	0	01	66
	579	0	04	01
	580	0	05	27
	577	0	00	71
	561	0	05	17
	560	0	01	78
	559	0	05	70
	557	0	05	35
	556	0	06	59
	555	0	11	76
	483	0	01	07
	481	0	00	53
	480	0	00	48
	482	0	00	48
	479	0	13	82
	478	0	08	20
4. UKAWALI	201	0	12	47
	202	0	00	89
	203	0	01	07
	204	0	00	53
	205	0	00	53
	207	0	00	36
	208	0	38	23
	209	0	00	30
	210	0	01	02
	214	0	00	53
	215	0	00	53
	249	0	23	82
	248	0	00	36
	220	0	21	74
	253	0	00	53
	221	0	00	36
	222	0	15	15
	247	0	00	53

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	248	0	00	36
	245	0	23	19
	243	0	00	36
	242	0	11	40
	225	0	01	58
	226	0	06	32
	104	0	05	15
	103	0	27	34
	100	0	01	43
	107	0	00	99
	108	0	09	09
	102	0	13	36
	101	0	10	69
	98	0	00	36
	93	0	02	84
	95	0	27	80
	96	0	08	08
	64	0	00	71
	25	0	05	88
	26	0	00	53
	27	0	39	92
	29	0	10	51
	30	0	14	43
	31	0	00	36
	32	0	07	52
	33	0	00	20
	34	0	00	20
	6	0	00	20
	5	0	11	40
	24	0	00	53
5. KHATTA PRAHLADPUR	2460	0	22	32
	2458	0	00	66
	2457	0	00	44
	2446	0	31	32

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	2437	0	00	66
	2436	0	26	63
	2435	0	03	12
	2448	0	00	36
	554	0	02	56
	553	0	02	79
	552	0	01	80
	551	0	00	54
	528	0	00	20
	521	0	28	80
	520	0	06	80
	518	0	00	20
	519	0	00	20
	514	0	00	44
	513	0	00	66
	505	0	06	30
	504	0	21	60
	496	0	00	44
	495	0	00	66
	494	0	08	64
	490	0	11	43
	489	0	00	60
	488	0	00	44
	487	0	00	66
	481	0	02	40
	480	0	07	20
	479	0	03	69
	477	0	00	48
	476	0	07	56
	468	0	00	45
	467	0	00	28
	453	0	00	72
	452	0	00	64
	458	0	01	04

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	451	0	01	60
	450	0	11	16
	449	0	13	32
	448	0	00	20
	447	0	06	12
	443	0	00	20
	446	0	05	94
	444	0	00	36
	299	0	03	24
	294	0	04	50
	293	0	17	82
	200	0	02	31
	376	0	00	63
	374	0	29	16
	351	0	00	48
	348	0	10	53
	347	0	11	79
	344	0	00	72
	340	0	00	48
	332	0	01	52
	333	0	08	28
	334	0	07	74
	335	0	00	84
	331	0	17	28
	330	0	00	72
	329	0	16	02
	324	0	00	48
	323	0	11	16
	322	0	00	48
	321	0	00	72
	318	0	02	75
	317	0	00	45
6. PAWLA BEGMABAD	1255	0	01	43
	1253	0	15	68

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	1161	0	02	08
	1162	0	11	32
	1168	0	07	97
	1167	0	00	20
	1169	0	07	93
	1214	0	09	98
	1213	0	10	31
	1212	0	00	63
	1178	0	01	31
	1181	0	08	17
	1182	0	18	17
	1183	0	01	66
	1127	0	00	95
	1126	0	01	27
	1125	0	00	95
	1055	0	02	49
	1049	0	04	99
	1048	0	05	71
	1050	0	00	24
	1047	0	01	90
	1046	0	03	92
	1045	0	06	95
	1042	0	09	78
	1038	0	00	35
	1041	0	01	58
	1040	0	08	37
	1010	0	00	20
	1039	0	01	74
	1011	0	08	32
	1014	0	03	64
	1012	0	00	20
	1013	0	12	39
	1003	0	00	20
	1006	0	02	06

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	1004	0	06	77
	995	0	00	20
	996	0	14	21
	997	0	00	53
	999	0	00	32
	960	0	02	67
	959	0	05	70
	958	0	12	12
	957	0	03	17
	729	0	09	98
	728	0	00	32
	727	0	00	20
	998	0	02	85
7. BASA TIKRI	207	0	01	43
	216	0	01	31
	229	0	00	89
	228	0	03	08
	227	0	04	45
	226	0	02	67
	218	0	01	29
	219	0	03	10
	220	0	01	53
	221	0	00	20
	215	0	00	89
	214	0	04	64
	212	0	00	36
	209	0	03	74
	210	0	13	43
	211	0	01	07
	206	0	00	89
	205	0	00	36
	204	0	15	33
	203	0	00	71
	201	0	09	75

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	202	0	00	87
	199	0	00	36
	198	0	17	82
	197	0	21	56
	196	0	00	20
8. GAURI PUR	338	0	00	36
	511	0	13	90
	508	0	00	20
	507	0	02	38
	506	0	05	44
	505	0	05	35
	510	0	00	53
	504	0	02	57
	503	0	00	36
	502	0	14	70
	500	0	14	61
	491	0	03	65
	490	0	04	28
	489	0	04	28
	441	0	00	53
	379	0	14	25
	380	0	11	05
	366	0	00	53
	365	0	23	34
	363	0	19	25
	361	0	00	53
	360	0	00	36
	358	0	01	78
	357	0	22	45
	393	0	00	36
	96	0	00	71
	95	0	00	71
	94	0	00	71
	50	0	00	36

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	67	0	01	67
	66	0	00	53
	63	0	10	69
	62	0	00	53
	61	0	00	36
	57	0	00	20
	56	0	01	58
	55	0	05	26
	54	0	16	39
	53	0	04	73
	52	0	01	74
	51	0	00	36
	46/526	0	00	20
	46/527	0	01	96
	45	0	00	89
9. HABIBPUR MAJRA	163	0	00	89
	164	0	13	90
	319	0	01	07
	165	0	13	72
	329	0	02	78
	335	0	00	44
	336	0	03	88
	337	0	07	84
	338	0	07	84
	339	0	04	37
	377	0	00	53
	378	0	00	36
	389	0	00	20
	394	0	00	20
	395	0	12	75
	396	0	09	62
	397	0	10	34
	405	0	00	48
	409	0	00	62

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	410	0	00	20
	411	0	08	29
	412	0	00	48
	414	0	00	36
	415	0	00	20
	416	0	03	80
	417	0	00	36
	418	0	05	70
	419	0	00	20
	404	0	00	53
10. MITLI	1915	0	01	42
	1917	0	07	13
	1912	0	05	70
	865	0	03	03
	864	0	00	83
	863	0	09	98
	862	0	00	36
	856	0	09	98
	849	0	00	36
	848	0	00	54
	832	0	04	14
	831	0	03	87
	829	0	17	46
	827	0	03	60
	825	0	00	54
	817	0	00	20
	816	0	09	00
	815	0	06	80
	814	0	04	08
	813	0	00	86
	812	0	02	25
	818	0	00	36
	787	0	23	40
	786	0	19	08

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	785	0	00	36
	784	0	00	54
	679	0	07	38
	680	0	00	36
	685	0	04	68
	686	0	04	68
	688	0	00	20
	687	0	00	56
	689	0	00	24
	684	0	00	80
	683	0	03	96
	526	0	01	26
	525	0	00	54
	522	0	13	86
	521	0	01	76
	520	0	06	40
	468	0	00	54
	467	0	00	36
11. BALI	1058	0	03	48
	1057	0	07	92
	1055	0	00	53
	1052	0	14	79
	1053	0	00	36
	1046	0	08	91
	1047	0	00	53
	1045	0	00	87
	1059	0	00	95
	1060	0	03	48
	1120	0	00	95
	1117	0	01	39
	1115	0	00	66
	1114	0	00	35
	1113	0	13	89
	1112	0	00	53

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	1111	0	00	36
	1108	0	01	19
	1107	0	06	41
	1105	0	00	20
	1106	0	00	20
	1104	0	06	28
	1094	0	03	36
	1095	0	22	99
	1092	0	03	17
	1091	0	00	36
	1090	0	00	54
	1087	0	16	02
	1083	0	00	36
	1084	0	00	53
	1078	0	00	32
	1086	0	00	20
	1077	0	14	79
	1075	0	00	36
	1073	0	00	30
	1074	0	22	89
	1071	0	00	89
	1068	0	00	30
	1069	0	00	45
	1070	0	00	30
	402	0	01	60
	404	0	03	39
	405	0	11	23
	406	0	08	02
	407	0	00	77
	420	0	00	95
	419	0	00	20
	401	0	00	36
	400	0	02	14
	278	0	00	36

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	293	0	06	42
	294	0	20	50
	295	0	00	20
	291	0	00	36
	290	0	00	53
	289	0	03	48
	288	0	06	42
	287	0	00	20
	286	0	10	69
	285	0	03	56
	280	0	00	48
	282	0	18	81
	281	0	00	51
	276	0	08	91
	266	0	01	19
	265	0	00	48
	247	0	22	45
	242	0	00	32
	248	0	08	35
	241	0	00	36
	232	0	00	83
	231	0	07	00
	230	0	02	38
	229	0	14	74
	228	0	00	32
	227	0	00	55
	182	0	00	79
	181	0	00	55
	180	0	00	83
	178	0	00	83
	179	0	01	78
	41	0	14	26
	45	0	01	96
	44	0	13	54

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	35	0	00	36
	33	0	00	20
	34	0	08	02
	46	0	00	40
	47	0	00	59
	56	0	00	69
	55	0	12	99
	52	0	06	77
	51	0	00	40
	50	0	10	71
	59	0	00	40
	60	0	00	59
	65	0	01	11
	61	0	13	62
	62	0	07	13
	63	0	00	71
	17	0	00	95
	18	0	00	48
	10	0	00	53
	9	0	08	43
	8	0	00	20
	7	0	00	99
12. PUTTHI BRAHAMNAN	212	0	09	80
	211	0	06	77
	213	0	00	54
	214	0	10	44
	176	0	01	16
	174	0	01	48
	215	0	09	05
	206	0	00	20
	207	0	00	87
	208	0	07	57
	216	0	00	20
	200	0	16	77

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	201	0	00	53
	198	0	08	05
	199	0	00	92
	193	0	01	31
	194	0	00	33
	195	0	10	36
	192	0	01	07
	196	0	00	20
	111	0	22	81
	110	0	04	28
	14	0	01	90
	18	0	15	51
	16	0	00	20
	17	0	00	20
	15	0	25	66
	6	0	40	99
	5	0	01	01
	3	0	20	16
	8	0	01	01
	9	0	00	40
	1	0	21	82
13. MUKARMPUR	90	0	00	20
	89	0	00	20
	85	0	00	71
	84	0	08	02
	83	0	10	34
	82	0	12	83
	81	0	00	53
	80	0	02	18
	79	0	06	68
	78	0	02	82
14. GYASRI URF GADHI	302	0	06	77
	301	0	02	61
	300	0	00	87

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	299	0	05	60
	298	0	01	74
	297	0	17	29
	296	0	00	71
	295	0	00	89
	294	0	01	43
	267	0	34	17
	268	0	03	03
	266	0	02	14
	264	0	03	56
	265	0	01	07
	257	0	10	21
	258	0	14	01
	259	0	05	27
	262	0	00	20
	255	0	02	79
	256	0	06	56
	254	0	12	52
	253	0	25	66
15. NAUROJPUR GOOJAR	370	0	01	43
	369	0	02	14
	342	0	00	71
	340	0	22	99
	334	0	00	71
	337	0	09	44
	336	0	11	21
	335	0	01	51
	153	0	00	89
	156	0	09	80
	158	0	18	53
	157	0	09	98
	149	0	04	28
	147	0	19	60
	94	0	00	53

Name of Village	Khasra No.	Area		
		Hectare	Acre	Square Meter
1	2	3	4	5
	93	0	31	18
	92	0	00	89
	95	0	32	25
	145	0	00	53
	96	0	03	30
	97	0	30	12
	108	0	00	65
	86	0	02	83
	83	0	07	48
	82	0	13	72
	43	0	00	71
	42	0	02	38
	41	0	00	63
	40	0	34	22
	37	0	05	88
	38	0	01	66
16. SOOJRA	562	0	01	80
	555	0	08	55
17. SARURPUR KALAN	1979	0	00	20
	1978	0	12	02
	1971	0	00	55
	1977	0	00	20
	1976	0	10	69
	1975	0	03	70
	1952	0	00	55
	1974	0	08	67
	1966	0	01	07
	1965	0	00	20
	1964	0	09	27
	1962	0	00	44
	1963	0	03	39
	1794	0	00	83
	1961	0	03	83
	1795	0	07	48

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	1796	0	03	80
	1798	0	05	75
	1799	0	01	52
	1785	0	02	22
	1784	0	02	22
	1783	0	02	22
	1710	0	00	20
	1691	0	04	76
	1690	0	08	20
	1689	0	02	14
	1667	0	00	59
	1662	0	00	97
	1661	0	09	38
	1665	0	00	95
	1666	0	05	65
	1669	0	01	11
	1670	0	08	36
	1645	0	02	16
	1657	0	01	07
	1656	0	05	71
	1655/2090	0	00	20
	1655	0	28	56
	1654	0	01	78
	1644	0	00	53
	1633	0	02	18
	1610	0	21	21
	1609	0	00	48
	1608	0	00	71
	1606	0	00	49
	1607	0	14	22
	1598	0	31	90
	1581	0	04	99
	1580	0	25	66
	1573	0	00	71

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	1572	0	13	14
	1574	0	00	71
	949	0	00	53
	1317	0	11	56
	1315	0	00	36
	1314	0	00	53
	1312	0	28	44
	1313	0	12	12
	1311	0	09	00
	1310	0	00	71
	1296	0	29	58
	1293	0	09	98
	1225	0	07	48
	954	0	03	86
	1224/1996	0	00	20
	1224	0	29	98
	1227	0	00	55
	1228	0	00	53
	1261	0	00	20
	1260	0	32	26
	1259	0	05	44
	1258	0	00	69
18. KHERKI	321	0	04	28
	303	0	00	41
	302	0	13	63
	300	0	17	82
	301	0	00	20
	284	0	26	65
	285	0	11	40
	272	0	05	52
	271	0	17	64
	270	0	22	81
	267	0	01	11
	268	0	00	20

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	269	0	04	72
	232	0	00	53
	266	0	00	20
	265	0	15	52
	264	0	00	70
	233	0	14	97
	224	0	00	53
	223	0	21	03
	221	0	00	59
	220	0	22	14
	236	0	01	90
19. SHIKOHPUR	167	0	01	35
	164	0	09	27
	156	0	00	53
	152	0	00	71
	151	0	43	13
	146	0	01	34
	150	0	01	58
20. TYODHI	950	0	27	26
	948	0	00	89
	947	0	00	53
	945	0	05	35
	944	0	00	36
	941	0	21	92
	921	0	04	28
	487	0	29	67
	488	0	00	89
	489	0	07	84
	490	0	07	13
	474	0	00	53
	472	0	23	52
	497	0	01	78
	497/994	0	02	38
	464	0	13	90

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	463	0	13	36
	444	0	00	89
	445	0	00	36
	448	0	12	47
	447	0	30	29
	288	0	00	20
	284	0	00	71
	287	0	03	70
	289	0	19	78
	290	0	06	95
	252	0	22	81
	247	0	00	36
	248	0	00	89
	251	0	01	25
	246	0	16	93
	245	0	09	98
	244	0	00	53
	242	0	23	88
	258	0	00	36
	259	0	00	71
	198	0	11	76
	199	0	00	36
	200	0	00	89
	203	0	02	49
	202	0	12	12
	201	0	04	45
	205	0	09	62
	207	0	00	53
	90	0	24	95
	89	0	31	90
	91	0	00	36
	92	0	00	53
	93	0	18	89
	94	0	23	80

Name of Village	Khasra No.	Area		
		Hectare	Are	Square Meter
1	2	3	4	5
	53	0	02	22
	54	0	01	01
	55	0	00	67
	56	0	22	45
	57	0	00	20
	58	0	00	20
	32	0	00	20
	21	0	00	20
	22	0	07	13
	31	0	11	76
	23	0	14	97
	17	0	23	34
	15	0	04	99
	13	0	05	17
	12	0	01	11
21. RAJPUR KHAMPUR	838	0	02	49
	807	0	31	54
	806	0	03	21
	810	0	00	20
	821	0	00	20
	805	0	39	56

[F. No. L-14014/30/2006-G.P.]
S.B MANDAL, Under Secy.

नई दिल्ली, 11 अक्टूबर, 2006

का. आ. 4005.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादकों के परिवहन के लिये भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाइप लाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन), अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री लाल सिंह सक्षम प्राधिकारी मुम्बई - मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड 179 विश्व लक्ष्मी नगर मथुरा-281004 (उत्तर प्रदेश) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : मथुरा

जिला : मथुरा

राज्य : उत्तर प्रदेश

क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	4	5
1.	ओल	136	0.0196
		137	0.1870
		144/2	0.0990
		146	0.0300
		149	0.2152
		237	0.0150
		239	0.0150
2.	खेड़िया	64	0.0138
		91	0.0458
		111/1	0.0080
		150	0.0994
3.	तारसी	98	0.0082
4.	महौली	1262	0.0506
		1348	0.0582
5.	जैत	289	0.0200
		668	0.0250
		1079	0.1260
		1264	0.2520
		1272	0.0090

[फा. सं. आर-31015/3/2005 ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 11th October, 2006

S. O. 4005.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mangliya (Indore) terminal in the state of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by the Bharat Petroleum Corporation Limited.

And whereas it appears to the Central Government that for the Purpose of laying such pipeline it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto:

Now therefore in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri LAL SINGH, Competent Authority, Mumbai – Mangliya Pipeline Extension Project Bharat Petroleum Corporation Limited 179 Viswa Laxmi Nagar Mathura-281004 (Uttar Pradesh)

SCHEDULE

TEHSIL: MATHURA		DISTRICT: MATHURA	STATE: UTTAR PRADESH
S.NO.	NAME OF VILLAGE	SURVEY NO.	AREA IN HECTARE
1	2	4	5
1.	AOL	136	0.0196
		137	0.1870
		144/2	0.0990
		146	0.0300
		149	0.2152
		237	0.0150
		239	0.0150
2.	KHEDIA	64	0.0138
		91	0.0458
		111/1	0.0080
		150	0.0994
3.	TARSI	98	0.0082
4.	MAHOLI	1262	0.0506
		1348	0.0582
5.	JAIT	289	0.0200
		668	0.0250
		1079	0.1260
		1264	0.2520
		1272	0.0090

[F. No. R-31015/3/2005-O.R.-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 11 अक्टूबर, 2006

का. आ. 4006.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादकों के परिवहन के लिये भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाइप लाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन), अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री लाल सिंह सक्षम प्राधिकारी मुम्बई - मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड 179 विश्व लक्ष्मी नगर मथुरा-231004 (उत्तर प्रदेश) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : मथुरा

जिला : मथुरा

राज्य : उत्तर प्रदेश

क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	अरहेरा	319 379 383	0.0028 0.2610 0.0900
2.	गणेशरा	39 50	0.0252 0.1506
3.	मधेरा	146 336	0.0448 0.1000
4.	मासूम नगर	340 169	0.2440 0.2520
5.	वाटी	223 724	0.0100 0.0150
		1381	0.0230
		1387	0.0040
6.	धनगौंव	116 132 149	0.0516 0.0060 0.0862
		194	0.0185

31/79/06-10

क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
6.	धनगौव (भारी)	196	0.0198
		197	0.0288
		260	0.0320
		262	0.1308
		453	0.0144
		454	0.0221
7.	छड़गौव	437	0.3492
		560	0.1886
		561	0.2050
		562	0.0828
		563	0.1080
		640	0.0315
		642	0.0028
		652	0.0152
8.	भैंसा	4	0.1500
		5	0.1230
		9	0.0150
		30	0.1296
		32	0.1170
		61	0.2456
		63	0.1774
		70	0.2250
		72	0.2328
		135	0.1980
		144	0.2132
		259	0.2185
		274	0.3906
		305	0.510
		486	0.0180
		507	0.1026
		510	0.0396
		512	0.0030
		522	0.1488
		551	0.0936
		600	0.0240
		601	0.0138
		602	0.0954
		604	0.0323
		605	0.0684
		606	0.0648
		608	0.1044
		627	0.1980
		637	0.1152
		638	0.0586
		645	0.2160
9.	धानाशमसाबाद	23	0.0064
		27	0.0174
		18	0.0080
		185	0.2282
10.	इकदन्ता	3	0.0330
		9	0.1495
		11	0.0570
		19	0.1345

क्र०	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
11.	बमूरी मुहाल गवी	367	0.1118
		403	0.0090
		405	0.0090
		434	0.0140
		440	0.0252
12.	बरारी	213	0.0490
		675	0.0094
		677	0.0136
		684	0.0684
		689	0.0390
13	धानातेजा	171	0.0515
		182	0.0200
		183	0.0403
		185	0.0178
		188	0.0068
		207	0.418
		442	0.0068
		448	0.0540
		449	0.0092
		483	0.0250
		535	0.0060
14.	मुहीउददीनपुर	212	0.0014
		216	0.0878
		227	0.0864
		228	0.3636
15.	पिलुआ सादिकपुर	29	0.0280
		65	0.0036
		70	0.0082
		76	0.0644
		122	0.0130
		509	0.2440
		528	0.1090
		574	0.0032
		586	0.0680
16.	अडूकी	68	0.0372
		70	0.0196
		131	0.0332
		172	0.0590
		173	0.0410
		175	0.0214
17	नौगोंव	80	0.2340
		194	0.4860
		205	0.0420
		742	0.0180
18.	सतोहा असगरपुर	219	0.0394
		628	0.1360
		1044	0.0580
		1046	0.0720

[फा. सं. आर-31015/3/2005 आ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 11th October, 2006

S. O. 4005.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the state of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by the Bharat Petroleum Corporation Limited.

And whereas it appears to the Central Government that for the Purpose of laying such pipeline it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto:

Now therefore in exercise of powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipeline (Acquisition of right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri LAL SINGH, Competent Authority, Mumbai – Manglya Pipeline Extension Project. Bharat Petroleum Corporation Limited 179 Viswa Laxmi Nagar Mathura-281004 (Uttar Pradesh)

SCHEDULE

TEHSIL: MATHURA		DISTRICT: MATHURA		STATE: UTTAR PRADESH	
S.No	NAME OF VILLAGE	SURVEY.NO		AREA IN HECTARE	
1	2	3		4	
1.	ARAHARA	319		0.0028	
		379		0.2610	
		383		0.0900	
2.	GANESHRA	39		0.0252	
		50		0.1506	
3.	MAGHERA	146		0.0448	
		336		0.1000	
		340		0.2440	
4.	MASUM NAGAR	169		0.2520	
		223		0.0100	
5.	VAATI	724		0.0150	
		1381		0.0230	
		1387		0.0040	
		116		0.0516	
6.	DHANGAON	132		0.0060	
		149		0.0862	
		194		0.0185	
		196		0.0198	
		197		0.0288	
		260		0.0320	
		262		0.1308	
		453		0.0144	
		454		0.0221	

S.No	NAME OF VILLAGE	SURVEY.NO	AREA IN HECTARE
7.	CHADGAON	437	0.3492
		560	0.1886
		561	0.2050
		562	0.0828
		563	0.1080
		640	0.0315
		642	0.0028
		652	0.0152
8.	BHAINSA	4	0.1500
		5	0.1230
		9	0.0150
		30	0.1296
		32	0.1170
		61	0.2456
		63	0.1774
		70	0.2250
		72	0.2328
		135	0.1980
		144	0.2132
		259	0.2185
		274	0.3906
		305	0.510
		486	0.0180
		507	0.1026
		510	0.0396
		512	0.0030
		522	0.1488
		551	0.0936
		600	0.0240
		601	0.0138
		602	0.0954
		604	0.0323
		605	0.0684
		606	0.0648
		608	0.1044
		627	0.1980
		637	0.1152
		638	0.0586
		645	0.2160
9.	DHANA SHAMSABAD	23	0.0064
		27	0.0174
		18	0.0080
		185	0.2282
10.	EKDANTA	3	0.0330
		9	0.1495
		11	0.0570
		19	0.1345
11.	BAMURI MUHAL GARVI	367	0.1118
		403	0.0090
		405	0.0090
		434	0.0140
		440	0.0252

S.No	NAME OF VILLAGE	SURVEY NO	AREA IN HECTARE
1	2	3	4
12.	BARARI	213	0.0490
		675	0.0094
		677	0.0136
		684	0.0684
		689	0.0390
13	DHANA TEJA	171	0.0515
		182	0.0200
		183	0.0403
		185	0.0178
		188	0.0068
		207	0.418
		442	0.0068
		448	0.0540
		449	0.0092
		483	0.0250
		535	0.0060
14.	MUHIUDDINPUR	212	0.0014
		216	0.0878
		227	0.0864
		228	0.3636
15.	PILUA SADIKPUR	29	0.0280
		65	0.0036
		70	0.0082
		76	0.0644
		122	0.0130
		509	0.2440
		526	0.1090
		574	0.0032
		586	0.0680
16.	ADUKI	68	0.0372
		70	0.0196
		131	0.0332
		172	0.0590
		173	0.0410
		175	0.0214
17.	NAUGAON	80	0.2340
		194	0.4860
		205	0.0420
		742	0.0180
18.	SATOHASGARPUR	219	0.0394
		628	0.1360
		1044	0.0580
		1046	0.0720

[F. No. R-31015/3/2005-O.R.-II]

A. GOSWAMI, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 13 सितम्बर, 2006

का. आ. 4007.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बोम्बे मर्केन्टाईल को. बैंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 143/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/167/2003-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th September, 2006

S.O. 4007.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 143/2003) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bombay Mercantile Coop. Bank Ltd. and their workman, which was received by the Central Government on 13-9-2006.

[No. L-12012/167/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, NEW DELHI**

PRESENT:

Shri R. N. Rai, Presiding Officer

I. D. No. 143/2003

In the matter of:

Shri Ashok Kumar Jain,
5/14, Sector-5, Rajinder Nagar,
Sahibabad (Ghaziabad)

Versus

The Assistant General Manager,
Bombay Mercantile Co-operative Bank Limited,
36, Darya Ganj,
Delhi-2

AWARD

The Ministry of Labour by its letter No. L-12012/167/2003 [IR (B-I)] Central Government Dt. 3/15-9-2003 has referred the following point for adjudication.

The point runs as hereunder :

“Whether the action of the management of Bombay Mercantile Co-operative Bank Limited, Delhi in

dismissing the services of Shri Ashok Kumar Jain, Ex. Peon-cum-Watchman of the Bank without notice vide order dated 20-5-2002 of the Disciplinary Authority and confirmed by the Appellate Authority vide order dated 9-10-2002 is just, fair and legal? If not, to what relief the workman is entitled to and from which date.”

The workman applicant has filed claim statement. In the claim statement it has been stated that the workman was appointed as a Peon-cum-Watchman in the Bombay Mercantile Co-operative Bank Limited at its Delhi Branch in the year 1977.

The service conditions of the workman were governed by the BPS entered into between the management of the Bank and its workmen from time to time.

When the workman had served the Bank for 22 years without giving any cause for complaint about his work and conduct, he was placed under suspension by an order dated 8-6-99 passed by the Bank's General Manager at New Delhi.

On recovery from the mental shock suffered by the workman due to his abrupt and uncalled for suspension he submitted a letter to the concerned General Manager dated 23-10-99, which being self explanatory.

When the workman's above letter dated 23-10-99 did not elicit any reply or action thereon from the concerned authority, he sent to him a reminder dated 29-2-2000, but this also remained unresponded, till the issue of chargesheet dated 5-7-2000 by Dy. General Manager, Head Office, Mumbai.

On receipt of the above chargesheet, the workman submitted a letter dated 24-7-2000 to the concerned Dy. General Manager, thereby requesting for being provided copies of certain documents to enable him to give a reply to the said chargesheet, but in the meanwhile, the workman received another chargesheet dated 26-7-2000.

On being permitted by the Dy. General Manager/Disciplinary Authority, by his letter dated 26-9-2000, the workman inspected the documents made available by Delhi Branch of the Bank and submitted a combined explanation dated 19-1-2001 in reply to both the above chargesheets.

In reply to his explanation dated 8-2-2001, the workman received a letter dated 16-2-2001, informing the workman that he would be given an opportunity to defend his case before the Inquiry Officer but without saying anything as to whether the Disciplinary Authority had considered his above explanation and if so, whether the said explanation had been found satisfactory or not.

The Inquiry Officer, appointed by the Disciplinary Authority commenced the inquiry on 22-3-2001 when the Bank's Presenting Officer (PO) filed 14 documents, already

marked by him as Bank Exhibits, B-I to B-14. On the next date 11-4-2001 the PO filed two more documents, B-15 and B-16. On 24-4-2001 the PO gave a list of three management witnesses. Two of these witnesses were examined on 15-5-2001 and the third on 16-5-2001 whereafter the PO filed two letters of one of the Account Holders, both marked as BW-3. After conclusion of the evidence of the third Bank witness on 20-6-2001, the PO examined another witness on the same date and stated that he would get the opinion of a handwriting expert on the disputed writings and would produce such opinion and the concerned handwriting expert on the next sitting of the inquiry. When the inquiry was resumed on 13-8-2001, the PO got "admitted writings" of the workman and filed the opinion of the handwriting expert dated 14-8-2001 on 21-8-2001, it was marked as B-17 while the photographs attached thereto and of the admitted writings were marked as B-18 and B-19 respectively. However, when the inquiry was resumed on 4-9-2001 the PO did not produce the concerned handwriting expert and closed the case on behalf of the Bank. In his defence, the workman submitted his own written statement of defence on 25-9-2001 and after cross-examination of the workman the inquiry was concluded on the same date.

About two months after the conclusion of the inquiry on 25-9-2001, the workman received an Officer order dated 20-11-2001 together with a copy of the findings of the Inquiry Officer from the Disciplinary Authority, who had proposed the punishment of dismissal against the workman in the said office order and asked the workman to make his submissions in writing against the nature of proposed punishment. The workman who had received the above office order on 4-12-2001, sent his written submissions dated 15-12-2001 to the Disciplinary Authority, whereafter the Disciplinary Authority passed an office order dated 20-5-2002 thereby confirming the punishment of dismissal against the workman, as earlier proposed in the Office order dated 20-11-2001.

After receipt of the Disciplinary Authority's Office Order 20-5-2002 on 31-5-2002, the workman submitted an appeal dated 1-7-2002 against the said punishment order of 20-5-2002 to the Managing Director of the Bank and when no date was fixed by the Managing Director for hearing the appeal within the prescribed period of one month from the date of its receipt (8-7-2002) by his office, the workman sent a letter dated 4-9-2002 to the Managing Director. By this letter, the workman had given notice to the Managing Director of the Bank that as the appeal had not been heard and disposed of within the periods prescribed therefore under the provisions of clause 17.3 of the BPS, it is meant that the Managing Director/Appellate Authority had no reasons to disagree with the grounds pleaded in the appeal and the same had been accepted by him and therefore, the punishment of dismissal given to the workman must be deemed to have been set aside and so, he had become entitled to be reinstated in service of

the Bank. However, the workman's appeal was rejected by an Office Order dated 9-10-2002.

The management has filed written statement. In the written statement it has been stated that the workman was removed from service after conducting a fair and proper inquiry in the serious charges of misconduct levelled against him. The workman was issued chargesheets to which he submitted his explanations. As the explanation of the workman was not satisfactory therefore the management decided to conduct a domestic inquiry in the matter of the charges levelled against the workman. The management appointed an independent inquiry officer and the workman was afforded full opportunity to defend the charges levelled against him. A representative of his choice represented the workman during the course of the inquiry. The Inquiry Officer observed the principles of natural justice while conducting the inquiry with respect to the chargesheets issued to the workman. The workman was found guilty of the charges levelled against him and a show cause notice was issued to him and also the report of the Inquiry Officer was made available to him. However as the workman could not find any fault with respect to the finding of guilt returned against him, the management terminated the services of the workman.

In view of the above it is submitted that the termination of the workman was fair and proper as he was found guilty of the fraud and he being employed in a Bank was expected to display sincerity and integrity in discharge of his duties. The management lost confidence in him and therefore the action taken by the management being fair, proper and in compliance with the principles of natural justice does not deserve any interference from this Hon'ble Tribunal.

That the contents of para 1 need no reply. However, it is submitted that the reference is bad inasmuch as the workman was dismissed in accordance with the rules and regulations applicable as well as the law in this regard.

That the contents of these paras need no reply as they relate to records of employment of the workman. However, it is submitted that the workman was suspended from service vide order dated 8-6-99 as serious charges of misconduct were levelled against him and his presence in the Bank was not desirable.

That the contents of para under reply are a matter of record. However, it is submitted that the workman had admitted his guilt vide his letter dated 7-6-99 and requested that he be forgiven for his wrong doings. Therefore, knowing fully well that the suspension order was legal and justified, he accepted the same. However, subsequently under the influence of misguided elements, he sent a false and frivolous letter dated 23-10-99, which contained afterthoughts and thus was rightly rejected by the management.

That the contents of para 10 are admitted to the extent that a chargesheet dated 5-7-2000 was issued to the workman.

That in reply to the contents of these paras it is submitted that the workman was issued chargesheets and as the explanation of the workman was not satisfactory the management decided to conduct a domestic inquiry in the matter. The workman was provided an opportunity to inspect the relevant documents as per his request and it is wrong and denied that the explanation of the workman was not considered before initiation of the inquiry.

That the contents of para (1) relate to the proceedings of the inquiry conducted by the Inquiry Officer in which the workman has also participated and therefore they being a matter of record need no reply.

That the contents of para under reply relate to records and therefore need no reply.

That the contents of para under reply are misconceived and therefore vehemently denied. It is submitted that the appeal of the workman was dismissed by the Competent Authority by a speaking order and therefore the presumption of the workman that as the reply was not received by him in a given period of time therefore it amounted to acceptance of his appeal, is without any basis and deserve rejection. It is submitted that the charges levelled and proved against the workman were of serious nature and therefore the question of reinstatement of the workman did not arise. More over the workman was not able to show any reason to differ from the findings of the Inquiry Officer of the Disciplinary Authority and therefore his appeal was rightly rejected.

The workman applicant had filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that dismissal order is bad because of inordinate, un-reasonable and incryptic delay in issuing two chargesheets and because of initiation of disciplinary proceedings against the CSE by lower rank by Dy. G. M. and initiation of inquiry proceedings before considering the explanation of the workman. This dismissal order is bad as the charge-sheeting authority confirmed the charges without considering the evidence. The charge-sheeting authority has come to the conclusion of the guilt of the workman on the very stage of issuance of the chargesheet. The charges issued in the second chargesheet were not included in the first chargesheet dated 5-7-2000. The concerned

handwriting expert and Account Holder Mr. Sandeep Malik were not examined.

It was further submitted that the order of proposed punishment dated 20-11-2001 is without application of mind to the facts and evidence on record and it is harsh and disproportionate. It was further submitted that neither the Disciplinary Authority nor the Appellate Authority considered the pleas raised by the CSE and he passed cryptic and un-reasoned order.

It is necessary to mention the charges levelled against the workman prior to the consideration of the pleas raised from the side of the CSE. The workman was issued chargesheet on 5-7-2000. It has been mentioned in the chargesheet that Shri Ashok Kumar Jain on 4-6-1999 approached Mr. Haroon Rasid Albi for issuance of Cheque Books against the Cheque Books requisition slip dated 4-5-99. From the Cheque Books serial No. 0983591 to 0983600 purported to have been issued by Mr. Md. Ghayas, Account Holder of SB A/c. No. 12072. Shri Ashok Kumar Jain told Mr. Haroon Rashid that the said requisition slip has been given to him by Mrs. Nasrin Sultana. On inquiry Mrs. Nasrin Sultana, Officer on the next day informed that she had not given any Cheque Books requisition slip to Shri Ashok Kumar Jain and her initial appearing on the said cheque is forged.

It was found further that the signature of Mr. Md. Ghayas, Account Holder of SB A/c No. 12072 did not tally with the signature recorded with the bank. Mr. Ashok Kumar Jain subsequently confessed the charges vide his letter dated 17-6-99 that he used the cheque book requisition slip of Account No. 44820 of Mr. Sandeep Malik to obtain the cheque book with an intention to commit a fraud.

Shri Ashok Kumar Jain has been charged as under :—

“Shri Ashok Kumar Jain acted dishonestly in connection with the business of the Bank and its customers and tampered with the bank's record which are acts prejudicial to the interest of the Bank”.

Shri Ashok Kumar Jain was served a chargesheet on 26-7-2000 which is as hereunder :—

“Shri Ashok Kumar Jain committed fraud of Rs. 2,00,000 in the account of Mr. Sandeep Malik while working at Delhi Branch which are acts prejudicial to the interest of the Bank.”

It was submitted from the side of the workman applicant that the principles of natural justice have not been followed, though there was un-reasonable delay in issuance of chargesheet. That the disciplinary proceedings have not been initiated by the disciplinary authority. The explanation of the CSE were not considered before issuing chargesheets. The institution of the inquiry was invalid. The guilt of the CSE was pre-decided and the pleas raised

by him have not been considered by the disciplinary authority and order of the disciplinary authority and appellate authority are cryptic, unreasoned and utterly nonspeaking. The dismissal order has been assailed on the ground of non-observance of the principles of natural justice.

It was submitted from the side of the management that the workman in his cross examination has clearly admitted that he fully participated in the domestic inquiry and all the documents were provided to him and all the witnesses were examined in his presence and they have been cross examined. He has further admitted that his Defence Assistant stated in his presence that cross examination of the handwriting expert was not necessary in the inquiry proceedings. He has further admitted that the copies of the inquiry proceedings were handed over to him and nobody from the management prevented him from leading evidence in his defence. He has also admitted that inquiry proceedings have been conducted in accordance with the principles of natural justice.

It was further submitted from the side of the management that from admission of the workman in his cross examination it becomes quite obvious that he has been given ample opportunity to adduce his evidence in defence and the handwriting expert was not examined as his Defence Assistant did not find it necessary. So the principles of natural justice have been absolutely observed in the inquiry proceedings. The workman has further admitted that the inquiry is quite independent. As such there is no merit in the contention of the workman that inquiry has not been conducted in accordance with the principles of natural justice.

It was further submitted that during the course of inquiry 4 witnesses have been presented by the Presenting Officer and all the witnesses have been cross examined by the Defence Counsel of the workman. The Inquiry Officer has given his findings after discussing and analysing the evidence of the witness in detail. The findings of the Inquiry Officer are based on analysis of evidence and the evidence adduced in course of inquiry proceedings.

It was further submitted that the Inquiry Officer has held that considering the sequence of evidence mentioned in Para 19.9 above Shri Ashok Kumar Jain would not be said to have committed the alleged fraud all by himself. The Inquiry Officer has further held that having regard to the position that has come on record Shri Ashok Kumar Jain has held to have a role in this matter in which the Bank has unfortunately suffered a loss of Rs. 2,00,000.

That the Inquiry Officer held the charges in the chargesheet dated 5-7-2000 established having regard to the discussion of the evidence. The Inquiry Officer has further pointed that the matter was detected at initial stage and unfortunately no financial loss has resulted to the bank in

the matter. He held the charges fully established in the chargesheet dated 26-7-2000.

It becomes quite obvious that the Inquiry Officer found the charges dated 5-7-2000 and 26-7-2000 established.

I have gone through the entire inquiry proceedings and have perused the evidence adduced by the management during the course of inquiry.

It was submitted from the side of the management that 4 witnesses have been examined in the inquiry proceedings. The management examined Mr. Haroon Rashid Albi, VW1, Mrs. Nasrin Sultana, VW2, Mr. Rizwan Nullas Sheikh, VW3 and Mr. Abdul Aziz, VW4. All these witnesses have been cross examined by the Defence Counsel of the workman. Shri Deepak Jain handwriting expert was not examined as the Defence Counsel did not find it necessary. The Inquiry Officer has concluded his finding on the evidence of all these witnesses. The Inquiry Officer has held that such a fraud of huge amount of Rs. 2,00,000 (Rs. Two Lakhs) and an attempt to commit several frauds cannot be done by only one employee. The witnesses also are involved in fraudulent transactions but the Inquiry Officer found the CSE involved. The Cheque Books and the Requisition Slip through which these frauds have been committed was found missing at the time of inquiry so almost all the officials took active part in this fraud or they connived.

It has been held in ILLJ 1994—B. C. Chaturvedi Vs. Union of India that adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Hon'ble Court or Tribunal.

It has been held further that the Hon'ble High Court/Tribunal, while exercising the power of judicial review cannot normally substitute its own conclusion on penalty and impose some other penalty, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Hon'ble High Court/Tribunal.

In this case four witnesses have been examined and they all have deposed in support of the charges. The Inquiry Officer has found the charges proved.

It has been held in a catena of cases by the Hon'ble Supreme Court that Rules and Technicalities of CPC are not applicable. The charge can be held proved even on sole testimony. In the instant case four witnesses have been examined and they have consistently deposed regarding the guilt of the workman.

It was further submitted that the punishment is harsh. Dismissal is the only punishment in such type of offences. It has been held in a number of cases that the major punishment of dismissal should be inflicted on a major misconduct. The Hon'ble Court/Tribunal can intervene

only when the punishment inflicted is found to be shockingly disproportionate. In the instant case there is serious charge of embezzlement of Rs. 2,00,000 and an attempt to further embezzle the bank's money. In such type of cases dismissal is the only punishment and it can never be shocking to the conscience of the Hon'ble Court/Tribunal.

It transpires from perusal of the claim statement that the proceedings after inquiry report and prior to conduct of inquiry have been challenged just as non-consideration of the explanation before issuance of the chargesheet, non-consideration of all the pleas raised by the workman before disciplinary authority and the appellate authority. The order of the disciplinary authority and the appellate authority have been challenged as being cryptic and unreasonable.

The quantum of punishment has been repudiated. Any fraud involving Rs. 2,00,000 (Rs. Two Lakhs) and an attempt to commit further fraud cannot be punished by any penalty other than the dismissal.

I have perused thoroughly the findings of the Inquiry Officer. There is no infirmity in the inquiry. The claimant has failed miserably to prove the case of his claim statement. He is not entitled to get any relief as prayed for.

The reference is replied thus :—

The action of the management of Bombay Mercantile Cooperative Bank Limited, Delhi in dismissing the services of Shri Ashok Kumar Jain, Ex. Peon-cum-Watchman of the Bank without notice vide order dated 20-5-2002 of the Disciplinary Authority and confirmed by the Appellate Authority vide order dated 9-10-2002 is just, fair and legal. The workman applicant is not entitled to get any relief as prayed for.

Award is given accordingly.

Date: 11-9-2006. R. N. RAI, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2006

का. आ. 4008.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधात्मक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 198/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/6/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th September, 2006

S.O. 4008.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 198/99)

of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 13-9-2006.

[No. L-12012/6/99-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

PRESENT:

Shri C. M. Singh, Presiding Officer

No. CGIT/LC/R/198/99

The General Secretary,
SBI Workmen Union,
V-20, "Vasundhara",
State Bank Colony,
Motia Talab Jehandirabad,
Bhopal (MP)

... Workman/Union

Versus

The General Manager (D & P),
State Bank of India,
Local Head Office,
Hoshangabad Road,
Bhopal (MP)

... Management

AWARD

Passed on this 29th day of August, 2006

The Government of India, Ministry of Labour vide its Notification, No. L-12012/6/99/IR(B-I) dated 7-5-99 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the management of State Bank of India in terminating the services of Shri Rajendra Kumar w.e.f. 17-3-93 is justified? If not, to what relief the workman is entitled?"

2. After the reference order was received, it was duly registered on 14-6-99 and notices were issued to the parties to file their respective statements of claim. The workman failed to put in appearance and filed his statement of claim in spite of sufficient service of notice on him. Therefore vide order dated 25-10-03 of this tribunal, the reference proceeded ex parte against the workman. Order dated 23-8-06 on the order sheet of this reference reveals that instead of filing Written Statement, the management moved application No. 4, whereby it has been prayed that no dispute award be passed.

3. It is very clear from the above that none of the parties filed his statement of claim and adduced evidence in support of their case. The burden of proving that the action of the management in terminating the services of Shri Rajendra Kumar w.e.f. 17-3-93 is not justified was on the workman Shri Rajendra Kumar, but he has failed to discharge his above burden. Therefore this tribunal is left with no option but to answer this reference in favour of the management and against the workman. Considering the facts and circumstances of the case, I am of the opinion that the costs of this reference should remain easy i.e. the parties be directed to bear their own costs of this reference.

4. In view of the above, the reference is decided in favour of the management and against workman Shri Rajendra Kumar and it is hereby held that the action of management of State Bank of India in terminating the services of Shri Rajendra Kumar w.e.f. 17-3-93 is justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

5. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2006

का. आ. 4009.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 248/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/100/98-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th September, 2006

S.O. 4009.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 248/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 13-9-2006.

[No. L-12012/100/98-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

PRESENT:

Shri C. M. Singh, Presiding Officer

No. CGIT/LC/R/248/98

The General Secretary,
State Bank of India Staff Congress,
SBI Staff Congress, MIG 1/6,
Shivani Complex, 6 No. Stop,
Bhopal

... Workman/Union

Versus

The General Manager (D & P),
State Bank of India,
Local Head Office,
Hoshangabad Road,
Bhopal (MP)

... Management

AWARD

Passed on this 30th day of August, 2006

The Government of India, Ministry of Labour vide its Notification No. L-12012/100/98/IR(B-I) dated 13-11-99 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of State Bank of India in terminating the services of Shri Gourishankar Thakur w.e.f. 1-8-97 is justified? If not, to what relief the workman is entitled?”

2. After the reference order was received, it was duly registered on 23-11-98 and notices were issued to the parties to file their respective statements of claim. It appears from the record that workman Shri Gaurishankar Thakur filed his statement of claim through his counsel Shri V. P. Nema, Advocate. The order dated 4-5-05 on the order sheet of this reference reveals that later Shri R. K. Dubey, representative of the union appeared for the workman and again requested for time for filing statement of claim. It shall be worthwhile to note here that party No. 3 to this reference order is the General Secretary, SBI Staff Congress, Shivani Complex, MIG 1/6, 6 No. stop, Bhopal; meaning thereby the union has been permitted to prosecute the case for workman Shri Gauri Shankar Thakur. It appears that for the above reasons, the representative of the Union requested for time to file statement of claim on behalf of workman. The workman was allowed to file his statement of claim on 10-8-05 at Camp Court, Bhopal. On 10-8-05 the date fixed in the case for filing statement of claim, no one appeared for the workman and no statement of claim was filed on his behalf and therefore it was ordered that the reference shall proceed ex parte against the workman. The management was directed to file its Written Statement on 28-10-05 at Camp Court, Bhopal. Thereafter on the successive dates fixed in the case i.e. 26-10-05, 24-1-06, 9-5-06 and 24-8-06, the workman remained absent. On 24-8-06, the date fixed in the case for filing Written Statement by the management, the management instead of filing Written Statement moved application No. 7 with the prayer to answer the reference as infructuous. Thus the management did not contest the reference case.

3. It is very clear from the above that the workman failed to adduce evidence in support of his case and the management failed to file their Written Statement. The burden of proving that the action of management in terminating the services of Shri Gaurishankar Thakur w.e.f. 1-8-97 is not justified was on the workman, but the workman/union failed to discharge its above burden. Under the circumstances, this tribunal is left with no option but to answer the reference in favour of the management and against the workman/union. Considering the facts and circumstances of the case, the parties should be directed to bear their own costs of this reference.

4. In view of the above, it is, hereby held that the action of management of SBI in terminating the services of Shri Gaurishankar Thakur w.e.f. 1-8-97 is justified and the workman is not entitled to any relief. The reference is decided accordingly in favour of the management and against the workman. The parties shall bear their own costs of this reference.

5. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2006

का. आ. 4010.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 243/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/97/98-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 13th September, 2006

S.O. 4010.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 243/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 13-9-2006.

[No. L-12012/97/98-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

PRESENT:

Shri C. M. Singh, Presiding Officer

No. CGIT/LC/R/243/98

The General Secretary,
State Bank of India Staff Congress,
SBI Staff Congress, MIG I/6,
Shivani Complex, 6 No. Stop,
Bhopal.

... Workman/Union

Versus

The Chief General Manager,
State Bank of India,
Local Head Office,
Hoshangabad Road,
Bhopal (MP).

... Management

AWARD

Passed on this 29th day of August, 06

The Government of India, Ministry of Labour vide its Notification No. L-12012/97/98/IR(B-I) dated 13-11-98 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Chief General Manager, State Bank of India in terminating the services of Shri Ramjeevan w.e.f. 1980 is justified? If not, to what relief the workman is justified for?”

2. After the reference order was received, it was duly registered on 23-11-98 and notices were issued to the parties to file their respective statements of claim. The workman failed to put in appearance and file his statement of claim and therefore vide order dated 9-8-05 the case proceeded exparte against the workman. The order dated 23-8-06 reveals that the management instead of filing Written Statement moved application No. 5 with the prayer that no dispute award be passed in this reference case.

3. It is very clear from the above that none of the parties filed its statement of claim and adduced evidence. The burden of proving that the action of the management in terminating the service of Shri Ramjeevan w.e.f. 1980 is not justified was upon the workman, but he has failed to discharge the said burden. Therefore this tribunal is left with no option but to answer this reference in favour of management and against the workman.

4. In view of the above, it is, hereby held that the action of management of Chief General Manager, State Bank of India in terminating the services of Shri Ramjeevan w.e.f. 1980 is justified and consequently the workman is not entitled to any relief. The reference order is answered accordingly in favour of the management and against the workman. The costs of this reference shall remain easy i.e. the parties shall bear their own costs of this reference.

5. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4011.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 151/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-12013/89/1998-आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 14th September, 2006

S.O. 4011.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 151/99) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 14-9-2006.

[No. L-12013/89/1998-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

PRESENT:

Shri C. M. Singh, Presiding Officer

No. CGIT/LC/R/151/99

The Vice President,
Punjab National Bank Employees Association,
C/o PNB, Bilkheria,
Bhopal (MP). ... Workman/Union

Versus

The Regional Manager,
Punjab National Bank, PNB,
Bhopal Region, Sikharvarta Bhawan,
Hoshangabad Road,
Bhopal (MP). ... Management

AWARD

Passed on this 29th day of August, 06

1. The Government of India, Ministry of Labour vide its Notification No. L-12013/89/98/IR(B-II) dated 24-30-3-99 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Regional Manager, Punjab National Bank in imposing the

punishment of 4 increments in r/o Shri Shaligram Meena with cumulative effect i.e. from 21-7-90 is justified? If not, what relief the workman is entitled to?”

2. After the reference order was received, it was duly registered on 6-4-99 and notices were issued to the parties to file their respective statements of claim.

3. The workman filed his statement of claim on 16-11-99. The order dated 16-7-01 on the order sheet of this reference case reveals that on this date, the management filed their Written Statement. The order sheet of this reference reveals that 29-7-05 was the date fixed for adducing evidence by the workman through affidavit but on the said date, no one appeared for the workman. However one more and the last opportunity was given to the workman to adduce evidence by affidavit on 22-11-05. On this date workman Shri Shaligram Meena requested for time to adduce evidence and fixing the case at camp court, Bhopal. The order dated 22-11-05 of this tribunal reveals that the workman's above request was allowed and 23-1-06 was the date fixed for evidence of workman at camp court, Bhopal. The order sheet further reveals that on 23-1-06, no one appeared for the workman. However again the last opportunity was awarded to the workman to adduce evidence on 8-5-06 by affidavit at camp court, Bhopal. The order sheet also reveals that on 8-5-06, no one appeared for the workman and therefore the case proceeded ex parte against the workman and 23-8-06 was fixed for evidence of management. The order sheet dated 23-8-06 reveals that on this date, no one appeared for the parties and no ex parte evidence was adduced on behalf of the management. Under the above circumstances, this tribunal was left with no option but to close this reference for award.

4. It is very clear from the above that neither workman nor the management adduced any oral evidence in this case. It shall not be out of place to mention here that the burden of proving that the action of management in imposing punishment of withholding 4 increments in respect of Shri Shaligram Meena with cumulative effect i.e. from 21-7-90 is not justified was on the workman. But the workman has failed to discharge his above burden. Under the above circumstances, the workman has failed in proving that the action of the management in imposing punishment of withholding 4 increments in respect of him with cumulative effect i.e. from 21-7-90 is not justified. Therefore the reference deserves to be answered in favour of the management and against the workman. But considering the facts and circumstances of the case, the parties should be directed to bear their own costs of this reference.

5. In view of the above, it is, hereby held that the action of management or Regional Manager, PNB in imposing punishment of withholding 4 increments in respect of Shri Shaligram Meena with cumulative effect i.e. from 21-7-90 is justified and therefore the workman is not

entitled to any relief. The reference is answered accordingly in favour of management and against the workman. The parties shall bear their own costs of this reference.

6. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4012.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-I, नई दिल्ली के पंचाट (संदर्भ संख्या 32/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/272/94-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 14th September, 2006

S.O. 4012.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/95) of the Central Government Industrial Tribunal/Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 14-9-2006.

[No. L-12012/272/94-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, NEW DELHI

I. D. No. 32/95

In the matter of dispute between :

Smt. Kishanwati,
Wife of Shri Rishal,
Resident of Jhugi No. B-27,
near Tehkhand Village,
Okhla Phase-I,
New Delhi-110020
Through ALABEA (NCBE)

... Workman

Versus

Assistant General Manager,
Allahabad Bank,
Regional Office,
Karol Bagh,
Arya Samaj Road,
New Delhi.

... Management

APPEARANCES :

Shri R. S. Saini A/R for Workman.

Shri A. K. Nagar, Sr. Personnel Manager for Management.

AWARD

The Central Government in the Ministry of Labour vide its order No. L-12012/272/94-I.R. (B-2) dated 20-2-1995 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the claim of the All India Allahabad Bank Employees' Association, New Delhi that Smt. Kishanwati worked with the Allahabad Bank, New Delhi as a Sweeper from February, 1989 to November/December, 1991 is correct? If so, whether the action of the Bank management in terminating her services from November/December 1991 and not paying her the entitled wages from February, 1989 is legal and justified? If not, what relief is the said workman entitled to?"

2. Brief facts of this case as culled from record are that the workman Smt. Kishanwati was working with the respondent Allahabad Bank from February/March, 1989 to November/December, 1991 as Sweeper @ Rs. 100 per month and she was paid consolidated salary of Rs. 100 per month by Mr. Sharma, the then Manager of the respondent bank again permanent full time sweeper vacancy having total sweeping area of bank's record premises approximately 6000 sq. ft. and she was forced/compelled under threat of retrenchment to work/clean whole area of about 6000 sq. ft. which as per rule is duty of full wages sweeper under the rules. She was not allowed to sign attendance registers etc. She approached her employer by signing the attendance register. Her services were terminated by the management by adopting unfair labour practice arbitrarily, illegally and discriminately and thus the management committed acts of great injustice. She is a poor S.C./S.T. and she is entitled to be reinstated with full back wages in service.

3. The case was contested by the management by filing written statement raising preliminary objections that the dispute under reference is not industrial dispute. There has been no relationship of employer-employee between the management and the complainant Smt. Kishanwati. She is not a workman under Section 2(s) of the I. D. Act. Present reference is misconceived and misplaced and void ab initio under the law and the same has been made without application of mind to the assertion made by the management before the A. L. C. (C). The reference is not based on any material.

4. On merits, the claim before this Hon'ble Tribunal is not disputed. It is denied that Kishanwati was employed against any permanent vacancy as alleged. She was not in the employment of the management and her claim that she

used to clean the area as mentioned in claim statement is denied. Circulars referred to in paragraph under reply, are not disputed but their bearing in the present case is denied. It is denied that the workman was paid consolidated salary of Rs. 100 per month by the Manager. The allegation of abuse of powers and violation of said circulars are denied and allegations of exploitation are also denied. She is not entitled to any relief as she was not in the employment of the respondent and she is not entitled to any payment. Attendance Register at the department is meant for attendance of the employees of the respondent. All the relevant documents were produced before conciliation officer. It is submitted that she was never engaged to sweep/clean the premises of the depot as alleged and the question of alleged termination does not arise. There is no question of termination of services as she was not in the employment of the respondent. It is denied that she is entitled to any benefit of the provisions of promotional rules. The allegation of violation of Article 14 is also denied. It is also denied that the management adopted unfair labour practice. It is denied that the workman is entitled to the claim of reinstatement. It is further stated that the respondent bank is a Government of India Organisation in Public Sector and recruitment therein is strictly governed by the Statutory Provisions of Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, and the Govt. of India Guidelines issued from time to time. No backdoor entry in the employment of the bank is permissible, nor any official at the depot or branch level is competent to engage or appoint any one in the employment of the respondent bank in disregard to the Statutory Provisions and the Govt. of India Guidelines. The claim statement is false and devoid of any merit and deserves no consideration.

5. Written statement was followed by rejoinder wherein facts mentioned in the claim statement were reiterated to be correct and controverted pleas in the reply were denied.

6. Parties adduced evidence. Workman filed his own affidavit in support of his claim and proved his deposition in affidavit as Ex. WW1/A. The respondent-management examined Shri Bal Kishan Sharma, Manager of the Office Stationery Department as MW1 who filed his affidavit supporting the case of the management and proved the same as Ex. MW1/A.

7. I have heard Shri R. S. Saini A/R for the workman and Shri A. K. Nagar, Sr. Personnel Manager for the management and perused to record meticulously.

8. The workman has claimed in her affidavit that she has worked in Stationery Department, Allahabad Bank Okhla as Sweeper @ Rs. 100 P. M. from Feb./March, 1989 to Nov./Dec. 1991. She was removed from service by the bank without assigning any reason or notice. In her claim statement it is averred that she was paid less wages and rest of the money was received by Mr. Sharma the then Manager of the Bank but this fact has not been mentioned

in her affidavit. In cross-examination she stated that she was called directly i.e. to say she was engaged directly and not called through Employment Exchange and she did not know if she was called through Employment Exchange. No appointment letter was given to her. She made written complaint that she was not engaged to work regularly. MW1 Shri Bal Kishan Sharma, the Manager, Stationery Depot in his affidavit has stated that she made stop gap arrangement during the period February, 1989 to 19-2-92 for sweeping arrangement. During the stop gap arrangement he made sweeping arrangement on casually on day-to-day basis and the workman Smt. Kishanwati was not engaged by him for any sweeping work. During cross examination he stated that the workman was not doing the work. Thus the workman has failed to prove that she worked with respondent as Sweeper. The only evidence adduced by the workman that she worked with the respondent as Sweeper during the period 1989 to 1993 is her deposition by way of affidavit Ex. WW1/A and there is no other evidence or document to support her claim and the averments made in her affidavit that she worked as Sweeper as claimed by her are not sufficient to substantiate/prove her claim that she worked besides this she has not averred/whispered a word that she worked as sweeper for 240 days continuously in any year or in a preceding year and there is any violation of provisions of Section 25F or any other law. In my view there is not an iota of evidence that the workman was employed with the respondent or worked with the respondent as claimed and she is entitled to reinstatement or any other relief. The reference is answered accordingly.

Dated : 5-9-06

S. S. BAL, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4013.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 69/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/89/95-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 14th September, 2006

S.O. 4013.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/96) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 14-9-2006.

[No. L-12012/89/95-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE SHRI SANT SINGH BAL, PRESIDING
OFFICER : CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
NEW DELHI**

I.D. No. 69/96

In the matter of dispute between :

Shri Ram Phai singh,
Through The General Secretary,
Bank of Baroda Employees Union,
710, Ballimaran,
Chandni Chowk,
Delhi-6.

... Workman

Versus

The Deputy General Manager,
Bank of Baroda,
Regional Office,
D.C.R-I, 16, Parliament Street,
New Delhi.

... Management

APPEARANCES:

Shri C.S. Dahya for the workman
Shri T.C. Gupta A/R for management

AWARD

The Central Government in the Ministry of Labour vide its order No. L-12012/89/95-IR (B-II) dated 21-6-96 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Bank of Baroda, New Delhi in denying promotion to Shri Ramphal Singh from sub/staff to clerical cadre from May, 1985 and instead effecting the same from August, 1987 is just and legal ? If not, to what relief is the said workman entitled ?"

2. Brief facts of this case as culled from record are that workman Shri Ram Phal Singh was appointed as sub staff in the year 1981 in the respondent bank. The bank called for applications in August, 1984 from sub-staff for promotion to clerical cadre. He has requisite qualifications as he has passed 10th class examination in the year 1984 conducted by C.B.S.E. and he sent his certificate alongwith his application to the respondent. He also appeared in the written test held in October, 1984 and passed the same. The pay certificate were duly verified. The bank sought the correctness/genuineness of the certificate from the Board without his knowledge. He was not promoted to the post of Clerical post in the year 1985 despite his being qualified. He took up the matter with the Higher Authorities several times and he was informed in June, 94 that the Assistant General manager of the Bank informed the Chief Manager, Bank of Baroda, Sadar Bazar, Delhi vide letter dated 14-6-94 that the workman had not submitted any certificate of recognition of the school by the Central

Government. He was not allowed to participate in the promotion exercise. He came to know that he has not submitted the certificate of recognition of the school by the Central Government and thus he was not considered for promotion. It is further stated that the workman appeared for promotional test for the next promotional test to be held in the year 1986. He submitted the same certificate as he did in 1984. This time he was promoted in August, 1987 on the strength of the same certificate submitted by him. He claims that he was entitled to be promoted in May, 1985 but was not given his due promotion in the said year. He has suffered monetary loss and the action of the bank in not promoting him from year 1985 is not justified and legal and that this was the only reason. Therefore, he claims promotion from May, 1985 alongwith arrears of salary for the period between May, 1985 to August, 1987.

3. The management contested the claim by filing written statement admitting the fact that the workman was serving as sub staff. He passed High School Examination in the year 1984 and he submitted the certificate and that he passed the test and that he was allowed to take up high school examination for his promotion on his assurance that he would produce High School certificate before the promotions are actually made. Workman appeared in the test but he did not produce High School pass certificate till the vacancies in the clerical cadre were fulfilled from out of the successful candidates thus the workman could not be promoted to clerical cadre for his own failure. It is also not denied that the workman again appeared for the promotional exercise held by the management in 1986 and passed and since he produced proof of his having passed High School examination the management promoted him to clerical cadre. It is specifically stated that the workman could not be promoted to clerical cadre in 1985 as he had failed to produce proof of his passing High School Examination by the time the vacancies were filled in. It is denied that the management acted arbitrarily declining promotion to the workman in 1985 which is unjustified and illegal and in view of the above facts the claim of the workman for promotion w.e.f. 1985 is sought to be dismissed.

4. Written statement was followed by rejoinder wherein the controverted facts in the written statement were refuted and the averments made in the claim statement were reiterated to be correct.

5. Thereafter evidence was adduced by both the parties respectively and workman examined himself as WW1 and was cross-examined while the management examined Shri Parkash Ranjan MW1 on behalf of the management and was also cross-examined.

6. After closure of evidence arguments were addressed by Shri C.S. Dahiya A/R for the workman and Shri T.C. Gupta Advocate A/R for the management at length.

7. I have given my thoughtful consideration to the contentions raised on either side and gone through the record meticulously.

8. It is not disputed that the workman has passed 10th class examination in the year 1984 and he fulfilled the requisite qualifications for promotion from sub staff to clerical cadre and that he also submitted his certificate to the respondent management but the controversy raised by the respondent is that the workman's claim for promotion made in the year July, 85 could not be taken into consideration as he (workman) has not submitted his certificate in time by the due date i.e. by 1984 or 22-9-84.

9. Taking into consideration all the facts and circumstances it would be in all fairness that the workman could not be denied promotion w.e.f. May, 85 as he possessed the requisite qualification but he submitted his certificate with the respondent though with some delay. In my opinion workman is entitled to be promoted with effect from May, 85. He is also entitled to the pay and allowances w.e.f. May, 85 to August, 1987. Hence it is ordered accordingly. Workman be promoted from May, 85 and he be given the pay and allowances w.e.f. the said date till the arrears from May, 1985 to August, 1987. The award is accordingly passed. File be consigned to record room.

Dated : 4-9-06

S.S. BAL, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4014.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, इरनाकुलम के पंचाट (संदर्भ संख्या 7/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/60/2005-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 14th September, 2006

S.O. 4014.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Bank of India and their workmen, which was received by the Central Government on 14-9-2006.

[No. L-12012/60/2005-IR (B-II)]

C. GANGADHARAN, Under Secy,

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present :

Shri P.L. Norbert, B.A., LL.B., Presiding Officer

(Monday the 28th day of August, 2006/6th
Bhadrapada, 1928)

L.D. No. 7/2005

Shri T. Thulaseedharan Nair,
TC 22/819, Suresh Bhawan,
Kizhe Perumpally Veedu,
Attukal, Manacaud,
Trivandrum.

... Workman

Adv. Shri C. Anil Kumar

The Zonal Manager,
Bank of India,
Zonal Office, Kaloor Tower,
Kaloor-Kadavanthra Road,
Kochi-682017.

... Management

Adv. Shri M.P.R. Nair

AWARD

This is a reference made by Central Government under Section 10 (1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :

"Whether the action of the management of Bank of India in compulsorily retiring from service of Sh. T. Thulaseedharan Nair, Ex-staff subordinate Sepoy of PTP Nagar Branch with superannuation benefits w.e.f. 27-4-2004 is justified? If not, to what relief the workman is entitled for?"

2. The facts in brief are as follows :

According to the workman he had joined the service of the bank on 1-4-1988 as sub-staff. While working at PTP Nagar branch a memo was issued to him raising certain allegations of misconduct. A domestic enquiry was conducted and the workman was found to be partly guilty of the first two charges and guilty of charges 3 & 4. The disciplinary authority differed from the findings of the enquiry officer and recorded a substituted finding and held that all charges stood proved. This was done without giving the workman an opportunity of hearing. On 6-3-04 a Show-Cause Notice proposing punishment was issued to the workman along with a report of enquiry officer and the substituted findings of the disciplinary authority. A reply was given by the workman. But without considering the mitigating circumstances of the workman the management imposed punishment of compulsory retirement from service. The punishment is shockingly disproportionate to the

charges. The enquiry officer had not followed the principles of natural justice. The documents were marked and witnesses were examined without prior notice. The workman was cross-examined in detail by the presenting officer in the very beginning of enquiry before management witnesses were examined. The findings of the disciplinary authority as well as enquiry officer are not based on evidence.

3. According to the management the reference is not maintainable. The charges leveled against the workman are very serious in nature involving financial irregularities. Hence the punishment imposed is perfectly justified. The workman was given opportunity by the enquiry officer to peruse documents marked in the enquiry. He was assisted by a defence representative. The workman was cross-examined in the presence of defence representative. No objection was raised by the workman during enquiry. No prejudice was caused to the workman at any stage of the enquiry proceedings. The disciplinary authority had given notice proposing punishment along with enquiry report and substituted findings of disciplinary authority. The workman was heard on 15-3-2004. The conduct of the workman was unbecoming of a bank employee and his guilt was of a serious nature. But taking a lenient view, instead of dismissing him from service he was compulsorily retired. There is no merit in the contention of the workman.

4. In the light of the above pleadings the following points arise for consideration :

- (1) Whether the domestic enquiry is valid ?
- (2) Is the findings sustainable ?
- (3) Is the punishment proportionate to the guilt ?

The evidence consists of the oral testimony of MW1 and documentary evidence of Exts. M1 to M7(a) on the side of management and no evidence on the side of workman.

5. Point No. 1:

The workman joined the service of bank as sub-staff on 1-4-1988. On the allegation of tempering with cheque leaves not belonging to him and issuing cheques knowing that there was no sufficient fund in his account, the workman acted in a manner prejudicial to the interest of the bank, a show cause notice was issued to him, a domestic enquiry was conducted and a penalty of compulsory retirement was imposed. According to the workman the enquiry officer has not complied with principles of natural justice and followed the normal procedure of affording sufficient opportunity to the delinquent. He was cross-examined at length in the beginning of enquiry by the presenting officer. A substituted finding was recorded by the disciplinary authority without notice to him. The punishment itself is disproportionate. These contentions of the workman is denied and challenged by the

management. According to them sufficient opportunity was given and principles of natural justice were complied.

6. The first allegation is that 18 documents were produced by the management on the first day of enquiry without a list and without furnishing copy of documents to the chargesheeted employee. The enquiry file is marked as Ext. M1. The proceedings of the enquiry show that the enquiry was started on 16-12-2003 at PTP Nagar Branch, Trivandrum. The presenting officer then presented 18 documents and they were immediately marked as Exts. ME1 to ME18. A witness list of 6 witnesses was also submitted to the enquiry officer. It was after the charge was read over to CSE (charge-sheeted employee) that the documents were produced and marked. It is not recorded that either the list of documents or copies of documents or list of witnesses were given to CSE or defence representative. What is recorded in the proceedings is that the next hearing date was fixed as 27-12-2003. The defence was instructed to verify the documents before that date. Before the enquiry was started the documents proposed to be relied on by the management should have been produced and copies given to the defence. Without documents the CSE could not have effectively cross-examined the management witnesses. So also, without knowing the contents of documents beforehand the defence cannot challenge documents effectively. Not even a list was given before the enquiry started. It is true that cross-examination of witnesses was conducted only on another date on 30-12-2003. The defence was asked to verify the documents. But how and where they were to be perused, is not mentioned in the proceedings sheet. The witness list was also not given to the defence. It was pointed out by learned counsel for the management that it was not necessary to give copies of documents to the defence in all cases. According to him it was not necessary to provide copies of documents which were not relied on by the enquiry officer. Besides the CSE has to show the prejudice caused to him by non-supply of documents. To support his contention he relied on the decision in *State of U.P. & Ors. Vs. Ramesh Chandra Mangalik* (2002) 3 SCC 443, paragraph 11 of the judgement contains the discussion. It reads as follows :

"11. Learned counsel for the appellant has further submitted that particular documents, copies of which are said to have not been supplied are not indicated by the respondent, much less in the order of the High Court nor has their relevance been pointed out. The submission is that the delinquent will also have to show as to in what manner any particular document was relevant in connection with the inquiry and what prejudice was caused to him by non-furnishing of a copy of the document. In support of this contention, reliance has been placed upon a case reported in *Chandrama Tewari v. Union of India*. It has been observed in this case that the obligation to supply copies of documents is confined only to material

and relevant documents which may have been relied upon in support of the charges. It is further observed that if a document even though mentioned in the memo of charges, has no bearing on the charges or if it is not relied upon or it may not be necessary for cross-examination of any witness, non-supply of such a document will not cause any prejudice to the delinquent. The inquiry would not be vitiated in such circumstances. In state of T.N. v. Thiru K. V. Perumal relied upon by the appellant, it is held that it is for the delinquent to show the relevance of a document a copy of which he insists to be supplied to him. Prejudice caused by non-supply of document has also to be seen. In yet another case relied upon by the learned counsel for the appellant, reported in State of U.P. v. Harendra Arora it has been held that a delinquent must show the prejudice caused to him by non-supply of a copy of the document where order of punishment is challenged on that ground."

In the instant case all the documents produced and marked were relied on by the enquiry officer in entering a finding against the CSE. Therefore it was necessary to provide at least a list of documents before enquiry started. If sufficient opportunity was given to peruse the documents that would have been enough. But in this case the proceedings do not show what was the manner in which or wherefrom he could peruse the documents. The procedure is improper and has caused real prejudice to CSE.

7. The next allegation is that the CSE was cross-examined at length by the presenting officer in the beginning of enquiry exposing all grounds of defence to the opposite side before the management proceeded to let in evidence. The proceedings of 30-12-2003 show that the CSE was cross-examined at length by the presenting officer on all the charges. The answer of the management in their written statement is that the cross-examination of CSE was done in the presence of defence representative and therefore no prejudice is caused to the defence. There is no meaning in saying that since cross-examination of CSE is done in the presence of his representative no harm is done to the delinquent. A person who is chargesheeted for misconduct, has no burden to prove that he is innocent until the management places sufficient material in support of the charges. Thus the management has to adduce sufficient evidence first to prove the allegations and then only the turn of the defence arises. But the presenting officer has put the cart before the horse by examining the CSE first. Not only that, a reverse order has been followed by the enquiry officer, but the very person chargesheeted is allowed to be cross-examined by the management on every charge, thereby the CSE who needs to keep mum until the management proves the allegations, is made to speak about the incriminating circumstances against him. What more prejudice should be there to the delinquent

than exposing him to such a circumstance? During chief examination of MW1 (management witness) and after the examination of MW2, the CSE was cross-examined. The whole procedure is improper and irregular.

8. The next contention of the workman is that though the enquiry officer found charges 1 and 2 partly proved and charges 3 and 4 fully proved, the disciplinary authority was not satisfied with the finding and hence entered a substituted finding and recorded that CSE was guilty of all the charges leveled against him, and proposed a punishment of compulsory retirement. According to the workman no notice was given to him about the intention of the disciplinary authority to differ from the findings of enquiry officer and thus he had no opportunity to put forward his defence regarding alteration of the findings of enquiry officer by the disciplinary authority. According to the management the CSE was not entitled to a notice prior to the substituted findings. Yet a notice to show-cause was given to him as to why the punishment of compulsory retirement shall not be imposed on him, along with the report of the enquiry officer and substituted findings of disciplinary authority. Ext. M2 is the show cause notice along with substituted findings and Ext. M2(a) is its Malayalam translation. Ext. M3 is the reply to Ext. M2 show-cause notice given by CSE. He pleads for mercy. Ext. M4 is proceedings of personal hearing of CSE on the proposed punishment. There CSE described his family conditions and mitigating circumstances. Ext. M5 is the punishment order and M5 (a) is the Malayalam translation. An appeal was preferred against the order of disciplinary authority, but CSE did not succeed. According to the management a notice of proposed punishment is sufficient. The learned counsel for the management tried to find support to his contention in *Lakshmiratan Cotton Mills v. Workmen* (1975) 2 SCC 761 (para 9). In that case the finding of enquiry officer was accepted by the disciplinary authority and a penalty was proposed. The disciplinary authority had not disturbed the findings of enquiry officer. Hence a notice of proposed punishment alone was given to CSE. The ruling has no relevance to the facts of this case where there is a substituted finding by the disciplinary authority. Again the learned counsel relied on *Thripunithura Municipality v. Dr. D.M. Leela & Ors.* 1997 (2) K.L.J. 345. In paragraph 6 it is held that "the principle has been accepted universally that it was not possible to lay down rigid rules as to when principles of natural justice are to apply. Everything depends upon the subject matter. The only requirement is that there must be fair play in the action. Moreover, some real prejudice also must be caused to person. A mere technical infringement of natural justice is not enough." The disciplinary authority in the instant case is differing from the findings of the enquiry officer on the same materials collected by the enquiry officer. It is only fair in such a case, that the defence is heard before entering a substituted finding. The learned counsel for the workman has pointed

out the decision in *Punjab National Bank & Ors. v. Kunj Bihari Misra & Anr.* 1998 ILL.J. 809. In paragraph 18 it is observed that an opportunity should be given to the defence before entering a substituted finding by the disciplinary authority. The relevant portion of paragraph 18 reads as follows :

..... When the disciplinary authority differs with the view of the inquiry officer and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted. It will be most unfair and iniquitous that where the charged officer succeed before the inquiry officer they are deprived of representing to the disciplinary authority before that authority differs with the inquiry officer's report and, while recording a finding of guilt, imposes punishment on the officer. In our opinion, in any such situation the charged officer must have an opportunity to represent before the Disciplinary Authority before final findings on the charges are recorded and punishment imposed. This is required to be done as a part of the first stage of inquiry as explained in *Karunakar's case (supra)*."

In the light of the above legal position it was not enough to give a notice after a different finding was entered by the disciplinary authority. Whatever be the opportunity of hearing that was given after recording a different finding by the disciplinary authority was insufficient to comply with principles of natural justice.

9. The aforementioned circumstances have caused real prejudice to the CSE. Though the CSE has a case that he was not given sufficient opportunity to adduce defence evidence it is true only with regard to substituted findings of the disciplinary authority but not the enquiry and findings of enquiry officer. The CSE had not raised such an objection before the enquiry officer. However there is violation of the principles of natural justice and lack of fair play in the matter of procedure and rules. Therefore I find that the enquiry is vitiated.

10. Point No. 2 :

I have already found that the domestic enquiry is not valid. It is to be noted that there is no prayer in the written statement that the management should be given an opportunity to adduce evidence in support of the charges levelled against the claimant in case the enquiry is found to be invalid. Moreover a petition filed subsequently to amend the written statement and incorporate a prayer for adducing additional evidence to support the case of management, was rejected as per order dated 30-3-2006 in I.A. 16/2006 in the light of the decision of Hon'ble Supreme Court in *K.S.R.T.C. v. Lakshmiddevamma* (2001-II LL.J. 199). Therefore no opportunity can be given to lead evidence in support of the charges levelled against the CSE.

Consequently, with the materials on record and the serious infirmities in the enquiry, findings of enquiry officer as well as the disciplinary authority cannot be sustained. Since the enquiry is found to be invalid, the same evidence adduced by the enquiry officer cannot be relied on by this court to find whether the charges are proved or not. An observation of High Court of Karnataka in *Radio & Electricals v. Industrial Tribunal* 1978 II-LL.J. 131 appears to be relevant in the context. Para 8 reads :

"8. At this stage it is necessary to refer to one important aspect relating to the procedure adopted before the Tribunal. After hearing for sometime, I felt that the Tribunal in considering the evidence on behalf of the 2nd respondent adduced not before it, but before the domestic enquiry has committed a procedural irregularity. In my opinion, when the domestic enquiry is held invalid and the Tribunal decides to record evidence before it both the parties should adduce evidence afresh before the Tribunal and the Tribunal cannot rely on the evidence in favour of any party which was adduced in the very domestic enquiry which is held invalid. The learned counsel for the 2nd respondent took time and filed a certified copy of the order-sheet before the Tribunal along with a memo dated 15-12-1977. According to the order-sheet on 9-3-1976 after the evidence on behalf of the petitioner-management, it was submitted on behalf of the workmen that he does not like to adduce rebuttal evidence and he relies on the evidence adduced in his defence in the domestic enquiry. This is obviously not objected to by the petitioner-management, agreed to by the Tribunal. Consequently the Tribunal has relied on the evidence in the domestic enquiry records, which as stated earlier was marked as Ext. A3 in the course of the evidence given by the enquiry officer. In view of the acquiescence, on the part of the petitioner-mangaement the procedure adopted has to be upheld. But for this circumstance, in view of the decision of the Supreme Court in *K.N. Barua v. Management of Budla Beta, T.E., SC, Labour Judgements 1950-67 Vol. I, p. 2667*, inclined to hold that it was not open for the Tribunal to have relied on the oral evidence in support of the defence of the 2nd respondent-workman which was not adduced before it as by such method the Tribunal is deprived of the opportunity of observing the demeanour of the witnesses, and the opposite party is deprived of the opportunity of cross-examining the witnesses before the Tribunal."

For the reasons stated above I find that the findings of enquiry officer and disciplinary authority are unsustainable.

11. Point No. 3 :

This point does not arise for consideration in view of the above findings.

12. In the result, an award is passed finding that the action of management cannot be justified, that the domestic enquiry is vitiated, that the findings of enquiry officer and disciplinary authority are unsustainable and consequently the punishment also cannot stand. The workman is entitled to be reinstated with full back wages, continuity of service and all other consequential benefits. However the parties will suffer their respective cost. The award will take the effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 28th day of August, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman :

Nil.

Witness for the Management :

MW1 : Shri Gulab Gangadharan

Exhibits for the Workman :

Nil.

Exhibits for the Management :

- M1 : Enquiry file in r/o Shri Thulaseedharan Nair.
- M2 : Show-Cause Notice dated 6-3-2004 proposing punishment issued to the workman by the Disciplinary Authority.
- M2(a) : Malayalam translation of Ext. M2.
- M3 : Application submitted by the workman to the Disciplinary Authority.
- M4 : Proceedings of personal hearing dated 15-3-2004.
- M5 : Punishment order No. ZO/KE/IRD/682 dated 19-3-2004.
- M5(a) : Malayalam translation of Ext. M5.
- M6 : Application dated 7-4-2004 submitted by the workman to the Zonal Manager, Bank of India.
- M7 : Order of the Appellate Authority No. ZO/KER/(IRD)/45 dated 27-4-2004.
- M7(a) : Malayalam translation of Ext. M7.

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4015.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स मोरयन फोरवार्डिंग कोरपोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, मुम्बई के पंचाट

(संदर्भ संख्या 70/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-31012/3/2004-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 14th September, 2006

S.O. 4015.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of M/s. Maryn Forwarding Corporation and their workmen, which was received by the Central Government on 14-9-2006.

[No. L-31012/3/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 MUMBAI

Present :

A.A. Lad, Presiding Officer

Reference No. CGIT-2/70 of 2005

Employers in Relation to the management of

M/s Maryn Forwarding Corporation

The Partner,

M/s. Maryn Forwarding Corporation.

49/7, Eastern Chambers, Gr. Floor.

Poona Street, Masjid Bunder (East),

Mumbai 400009

And

Their workmen

Shri A.B. Choudhari.

APPEARANCES:

For the Employer : Absent

For the Workmen : Mr. A.D. Nimbalkar, Advocate

Date of reserving Award : 4th August, 2006

Date of passing of Award : 9th August, 2006

AWARD

The Government of India, Ministry of Labour by its Order No. L-31012/3/2004 IR-(B-II) dated 4th May, 2005 in exercise of the powers conferred by clause (d) sub-section

(I) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of M/s. Maryn Forwarding Corporation, Mumbai in terminating the services of Shri Amrutrao Bajirao Chaudhari, w.e.f. 1-7-2004 is justified? If not, what relief, Shri Amrutrao Bajirao Chaudhari, is entitled to?”

2. To support the subject matter referred in the reference, 2nd Party filed Statement of Claim at Exhibit 5 stating that concerned workman Amrutrao Bajirao Chaudhari, was engaged by Markand S. Patel and his real brother Mr. Yogesh S. Patel who are running transport and forwarding agency in Bombay Port Trust under the name and title as “M/s. MAC Transport Company and M/s. Maryn Forwarding Corporation”. Though there were two establishments the administration and business of both were one and the same and managed by one body. Second party was employed on 20th May, 1980 with the 1st Party and his name was in the list of M/s. Mac Transport Company. After him 50 were employed by the said Company. They were required to work for more than 22 hours a day. In 1982 they were informed that, they were made permanent. However, in 1983 it was declared by Mr. Markand Patel that they are going to close down their activities. So the workers approached the Union led by Dr. Datta Samant and his brother. In 1988 Management of the 1st Party took over another Company by name M/s. Lift & Shift along with 185 employees. All those were junior to the 2nd Party workmen who were already working. There were 50 surplus employees in these 185 employees absorbed by the 1st Party company. That, the 1st Party was engaged in taking contract of transportation of various companies, shipping Agents. After absorbing 185 employees of taken over Company these employees were unable to cope up with the work taken over by the 1st party as such Markand Patil decided to take the services of the old employees. However, 1st party was pressing workmen to work more than 22 hours a day which was not liked by them. So some of the workmen left the Company. At that time employer retrenched 51 employees in 2003 without following the due process of law. Then another decision was taken to remove 56 employees from the left out 89 employees. The name of the 2nd Party workman and two other employees viz. R.A. Unde and S.N. Kotgir were not in the removal list still, they were not permitted to work and without following due process of law he was not allowed to report on duty. The retrenchment provisions were not followed by the 1st party. So he prayed to set aside the said retrenchment with directions to the 1st party to take him in the employment with benefits of the

retrenchment effected was not just and proper which was effected on 1st July, 2004. So he prayed to set it aside with directions to reinstate him with benefits of back wages and continuity of service.

3. Notice of the said Reference was served on 1st Party. Exhibits 8 and 10 reveals it was served on 1st Party. No reply is given to it. So order was passed to proceed of ex parte.

4. To support the claim 2nd Party filed affidavit at Exhibit 11 where he stated that retrenchment effected on him with effect from 1st July, 2004 is against the provisions of retrenchment. This say of the 2nd Party is not disputed by the 1st Party. So include that the retrenchment effected on the 2nd Party with effect from 1st July, 2004 is not just and proper. Hence, I proceed to pass the following order :

ORDER

- (a) Reference is allowed;
- (b) It is declared that the retrenchment, of 2nd Party, dated 1st July, 2004 is not just and proper;
- (c) 1st Party is directed to reinstate 2nd Party and give him benefits of back wages and continuity of service from 1st July, 2004;
- (d) In the circumstances, there is no order as to its costs.

Mumbai,

9th August, 2006.

A.A. LAD, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4016.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑल इण्डिया रेडियो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 65/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/62/2003-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4016.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of All India Radio and their workmen, which was received by the Central Government on 14-9-2006.

[No. L-42012/62/2003-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
NEW DELHI**

R.N. Rai, Presiding Officer

I. D.No. 65/2004

In the matter of :

S/Shri Kapil Kumar & Shri Mahipal,
C/o President,
All India Radio,
Civil Construction Wing Employees Union,
Broadcasting House,
New Delhi-110 001.

Versus

The Executive Engineer (Elect.)
Division No. 1,
Civil Construction Wing,
A.I.R., Pushpa Bhawan,
New Delhi-110 062.

AWARD

The Ministry of Labour by its letter No. L-42012/62/2003-IR (C-II) Central Government dated 31-03-2004 has referred the following point for adjudication :

The point runs as hereunder :—

“Whether the demand of All India Radio, Civil Construction Wing Employees Union for reinstatement/regularization of S/Shri Kapil Kumar and Mahipal, contract workmen in All India Radio, New Delhi is legal and justified ? If yes, to what relief the workmen are entitled.”

The workmen applicants have filed claim statement. In their claim statement they have stated that they were employed as Pump Operators (through the contractor M/s. Dogra and Dogra Enterprises) with effect from 16-8-1993 and 6-10-1993, respectively on monthly rate of wages under the administrative control of the respondent/management being a principal employer.

That the concerned workmen were engaged against the work of RMO Firefighting Pump and Drinking Water Pump Sets and Fire Alarm System at Doordarshan Bhawan, Mandi House, New Delhi, which is of perennial nature which is incidental to and necessary for the working of the respondent.

That during the period from 1986 to 1992, the said work was being looked after by the regular Pump Operators, who were employed on regular pay scale with other allied benefits under the service rules as amended from time to time. But later on from August 1993 the said

work was given to the contractor M/s. Dogra and Dogra Enterprises, who was not the Registered Labour Contractor under the Contract Labour (Regulation & Abolition) Act, 1970.

That the Civil Construction Wing, All India Radio, is a replica of the CPWD and is legally bound to follow the rules and regulations of the CPWD as contained in the CPWD Manual Vol. III vide Ministry of Information and Broadcasting letter No. G-28011/1/75-CW-III-E(D) dated 20-11-1975 read with AIR Manual, paragraph 3.5.17 at page 58.

That Civil Construction Wing, All India Radio have been held to be “Industry” within the meaning of Section 2(J) of the ID Act, 1947 by the Hon’ble High Court of Delhi in C.W. No. 765 of 1975 decided on 24-04-1994.

That the action of the respondent in awarding and getting the above noted work from the contractor which is of a perennial nature instead of the Muster Roll/Regular Employees is against the standing instructions of the Government of India as contained in the D.G. of Works, CPWD, New Delhi O.M. No. DG(W) 5/3/94-EC-IV dated 1-11-1985 as amended from time to time which is fully applicable to the Civil Construction Wing, AIR being a replica of CPWD.

That the concerned workmen are entitled for the absorption/regularization of their services after the completion of 240 days continuous services with the respondent in accordance with the provisions of Section 25-B of the ID Act, 1947.

That the action of the respondent for not absorption/regularizing the services of the concerned workmen in the department and still getting the work through the “Contract Labour” is against the statutory provisions of Section 10(2) of the Contract Labour (Regulation & Abolition) Act, 1970 and is a clear case of unfair labour practices as held by the Hon’ble Apex Court from time to time.

That the concerned workmen’s work and conduct remained quite satisfactory under the direct control of the authorities of the Principal Employer right from 1993 till they were removed on 27-02-2002 during the pendency of conciliation proceedings before the Assistant Labour Commissioner (C), Government of India, New Delhi as such they are fully entitled to get the back wages as they are out of the job.

The management has filed written statement. In the written statement it has been stated that the claimants/workmen are not falling under the definition of “workman” as per the provisions of the ID Act, 1947 and the present claim under reply is not maintainable before this Hon’ble Tribunal. It is respectfully submitted that the answering management has never appointed/engaged the claimants/workmen herein. There exist no employer-employee

relationship between the answering management and the workman since the claimants were never employed by the management, and hence, it is respectfully submitted that present claim of the claimants/workmen under reply is liable to be dismissed by this Hon'ble Tribunal on this ground alone.

That the claimants/workmen have no cause of action in their favour and against the management. It is respectfully submitted that the claimants/workmen were never engaged by the answering respondent at any point of time for any work and therefore, the workmen have no cause of action against the answering management and in their favour and hence, present claim under reply is liable to be turned down by this Hon'ble Tribunal on this ground alone.

That the present claim of the claimants/workmen is bad for non-joinder of the necessary party for just and proper adjudication of the matter. It is respectfully submitted that admittedly, the claimants/workmen herein were engaged by some contractor(s) and the payment were received by them from the contractor to whom certain work was awarded. It is submitted that the workmen herein have failed to make the said contractor(s) necessary party for the just and proper adjudication of the matter by this Hon'ble Tribunal. Hence, it is respectfully submitted that the present claim of the claimants/workmen under reply is bad for non-joinder of necessary party and therefore, the claim in its present form is liable to be dismissed by this Hon'ble Tribunal on this ground alone.

That the present claim of the workmen is time barred and therefore, not maintainable. Without prejudice to its rights and contentions of the answering management, it is respectfully submitted that the claim of the workmen is time barred hence the present claim is liable to be dismissed by this Hon'ble Tribunal on this ground alone.

That the workmen herein have not come to this Hon'ble Tribunal with clean hands by concealing material facts, which are necessary and essential for just and proper adjudication of the matter. Without prejudice to its contentions of the answering management, it is respectfully submitted that the claimants/workmen herein have intentionally and deliberately concealed certain material facts from this Hon'ble Tribunal to take undue advantage. As per the statements/averments of the workmen in the Writ Petition vide No. 2227/2000 filed before the Hon'ble High Court of Delhi, it was stated by the workmen that they were engaged in the year 1995 as per para Nos. 3 & 4 of the above said writ whereas in the present statement of claim under reply they have categorically stated that they were employed through the contractor (s) w.e.f. 16-08-1993 and 06-10-1993. Hence the present claim of the workmen is not reliable and trustworthy and therefore, the present claim is liable to be dismissed by this Hon'ble Tribunal on this ground alone.

The case was not espoused by the Registered Trade Union. Even the filing of present claim under reply was objected by the Registered Trade Union. Exhibit No. R-1 (Colly).

It is denied that the workmen herein were employed as Pump Operators w.e.f. 16-08-1993 and 06-10-1993 through the contractor under the administrative control of the management being a principal employer. In reply to this para it is submitted that the workmen herein were never engaged by the answering management, therefore, the question of control of the answering management does not arise. The contents of above said preliminary objections may be read as part and parcel of reply to the corresponding para of the statement of claim, which are not being repeated herein for the sake of brevity.

In reply to this para it is submitted that the Fire Fighting and Fire Alarm Systems are being maintained as per requirement and on the basis of sanction of funds accorded by the concerned authorities on yearly basis. For maintaining the Fire Fighting and Fire Alarm Systems specialized agencies are required and for this purpose tenders are invited and after fulfilling the codal requirement, the agency/contractor has to maintain the systems as per terms and conditions of the agreement.

It is submitted that the Fire Fighting and Fire Alarm Systems are being maintained as per requirement and on the basis of sanction of funds accorded by the concerned authorities on yearly basis. The work is being not done by the management on job basis by inviting tenders after fulfilling the codal requirement. The agency/contractor has to maintain the system as per terms and conditions of the agreement.

It is vehemently denied that the workmen herein are entitled for absorption/regularization of their services after the completion of 240 days continues services with the management in accordance with the provisions of Section 25 B of the ID Act, 1947. The contents of preliminary objections may be read as part and parcel of this reply which are not being repeated here for the sake of brevity.

It is strongly denied that the action of the management for not absorption/regularizing the services of the workmen in the department and still getting the work through the contract labour is against the statutory provisions of Section 19(2) of the Contract Labour (Regulation & Abolition) Act, 1970. It is also denied that is a clear case of unfair labour practices as held by the Apex Court. In reply to this para it is respectfully submitted that no notification under section 10 of Contract Labour (Regulation & Abolition) Act, 1970 has been issued by the Government. It is further submitted that no unfair labour practice has ever been done by the answering management and the allegation of the workmen are false, frivolous, misconceived and hence denied.

It is vehemently denied that there was any direct or indirect control of the answering management over the concerned workmen. It is also denied for want of knowledge that the workmen were removed on 27-2-2002. It is strongly denied that the workmen are fully entitled to get backwages as claimed. In reply to this para it is submitted that the workmen herein were never engaged by the answering management at any point of time, therefore, the answering management cannot comment on the question of workmen's work and satisfactory conduct. It is further submitted that since the workmen were never engaged by the answering management therefore, the question of removal does not arise. The contents of above said preliminary objections may be read as part and parcel of this reply to the corresponding para of the statement of claim, which are not being repeated here for the sake of brevity.

The workmen applicants have filed rejoinder. In their rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

It transpires from perusal of the order sheet that the management has not been turning up since 6-3-2005. The workmen have filed affidavits on 13th July, 2006. Cross of the workmen was closed in the absence of the management and the case was posted for argument. The management sought adjournment even on 30-8-2006. The case was again posted on 5-9-2006 for argument. The management was not present.

Heard argument from the side of the workmen.

The peculiar facts of the case is that not even a single scrap of paper has been annexed with the record. The workmen have filed a copy of DG of works, copy of legal notice, copy of writ petition, copy of counter affidavit, copy of judgment of the Hon'ble Delhi High Court. No other document has been filed by the workmen. The case of the workmen is that they were engaged through the contractor M/s. Dogra and Dogra Enterprises w.e.f. 16-8-1993 & 6-10-1993 respectively on monthly rate of wages under the administrative control of the respondent/management being principal employer. It was the duty of the workmen to prove the fact that they were engaged through M/s Dogra and Dogra Enterprises. They have not filed any document regarding their engagement.

It was submitted that the work is of perennial nature which is incidental to and necessary for the working of the respondent. Prior to the engagement of the contractor work was done by regular employees. This work was entrusted to the contractor in 1993 and the workmen were engaged. It was the duty of the workmen to make the contractor party to the case and to prove that they were engaged as stated. They have not filed any proof to show that they worked through the contractor M/s. Dogra and Dogra Enterprises as stated in their claim and affidavit.

The averments of the claim statement are to be proved by cogent documentary evidence. Merely on the basis of affidavit it cannot be held that the workmen were engaged through M/s. Dogra & Dogra Enterprises. It is the duty of the workmen to prove by cogent documentary evidence that they worked under the control and supervision of the respondent/management. The work may be of perennial nature but it is to be proved by the workmen that they performed duties under the control and supervision of the management. It was the duty of the workmen to prove that the payments to them were made by the respondent/management. Attendance of the workmen were taken by the management. In the instant case there is no documentary proof to show that the workmen were ever engaged by M/s Dogra and Dogra Enterprises. There is no proof that they worked under the control and supervision of the management and their services were integrated with the management.

It is settled law that fact regarding services cannot be proved by the averments of affidavit, else everyone will approach the Court and file affidavit regarding his services rendered. Affidavit is of no substance in such circumstances. This is an ex-parte case. The averments of the claim statement are to be proved by documentary evidence even in ex-parte cases. The workman have miserably failed to prove their case. They do not deserve any relief.

I have perused the order of the Hon'ble Delhi High Court. The workmen have been directed to approach the appropriate forum in view of the case of Steel Authority of India.

The reference is replied thus :

The demand of All India Radio, Civil Construction Wing Employees Union for reinstatement/regularization of S/Shri Kapil Kumar and Mahipal, contract workmen in All India Radio, New Delhi is neither legal nor justified. The workmen applicants are not entitled to get any relief as prayed for.

Award is given accordingly.

Date : 11-9-2006

R.N. RAI, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4017.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एडवांसमेंट व्यूपिल्स एक्शन एण्ड रूरल टेक्नोलोजी (कपार्ट) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 37/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-09-2006 को प्राप्त हुआ था।

[सं. एल-42012/189/2002-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 37/3003) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Council for Adv. Pupils Action & Rural Tech. (CAPART) and their workmen which was received by the Central Government on 14-09-2006.

[No. L-42012/189/2002-IR (C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, NEW DELHI

R. N. RAI : Presiding Officer

I. D. No. 37/2003

In the matter of:—

Shri Ramesh Chander,
S/o. Shri Madwa Nand,
R/o. 20/306, DDA Flats,
Dakshin Puri Extension,
New Delhi-110 062.

Versus

The Director General,
Council for Advancement Pupils Action & Rural
Technology (CAPART)
India Habitat Centre, Zone V,
2nd Floor, Lodhi Road,
New Delhi-110 003.

AWARD

The Ministry of Labour by its letter No. L-42012/189/2002-IR (C-II) Central Government Dt. 11-03-2003 has referred the following points for adjudication :

The points run as hereunder :—

1. "Whether the demand of the union in relation to equal wages for equal work as performed by Shri Ramesh Chander for performing the work at par with the permanent employees for the period w.e.f. 01-04-1986 to 30-09-1988 as Peon and w.e.f. 01-10-1988 to 01-09-1996 is just, fair and legal? If yes, what relief he is entitled to and from what date?"
2. "Whether the action of the management of Council for Advancement of Pupil's Action and Rural Technology, New Delhi in terminating the services of Shri Ramesh Chander, Ex. Clerk w.e.f. 21-08-1998 during probation period for not obeying the lawful

order of competent authority, without holding domestic inquiry is just, fair and legal? If not, what relief the workman is entitled to and from what date?"

The workman applicant has filed claim statement. In the claim statement it has been stated that he was initially employed as Peon on daily wages w.e.f. 01-04-1986 and worked on the same capacity up to 30-09-1988.

That he was again appointed to the post of LDC on daily wages w.e.f. 1st October, 1988 and his services were regularised as LDC w.e.f. 02-09-1996 in the pay scale of Rs. 950-20-1150-EB-25-1500.

That the management also appointed one Shri Gulshan Chadha as daily wagger LDC w.e.f. 1st January, 1989 and the management arbitrarily regularised his services w.e.f. 1st September, 1994 while ignoring the claim of Shri Ramesh Chander being a Senior LDC on daily wages.

That the management after the arbitrary regularisation of the services of Shri Gulshan Chadha being a junior daily wagger LDC posted him in the headquarter i.e. New Delhi.

That some other persons were also appointed directly through Employment Exchange, but Shri Ramesh Chander was ignored at the time of regular appointment as LDC also.

That the management allowed him to appear in the typing test as per office order dated 14-11-1995 and copy of the same is annexed as Annexure-A with the statement of claim and management directed Shri Ramesh Chander, daily wagger LDC to appear in the typing test being a senior-most daily wagger doing the work of type for the management.

That the management offered the appointment letter to the post of LDC vide its letter dated 20-06-1996. Copy of the said memorandum is annexed as Annexure-B with the statement of claim.

That as per the offer of appointment the post of LDC is a regular nature of work and the workman was offered appointment at Jaipur and also mentioned in the offer of appointment the services of the workman is on all India basis and he will be posted in any part of the country.

That moreover the offer of appointment was arbitrary and against the provisions of Industrial Disputes Act.

That the management then issued the office order dated 21-08-1996 for appointing the workman Shri Ramesh Chander, copy of the same is Annexure-C with the statement of claim.

That the management has also issued the office order dated 10-09-1996 while transferring the services of the workman to Jaipur office of the above management, copy of the same is annexed as Annexure-D.

That Shri Ramesh Chander had been performing his duty as Peon w.e.f. 01-04-1986 to 30-09-1988 as daily wagger and again performed his duty as LDC w.e.f. 01-10-1988 to 01-09-1996 on daily wages then his services were regularised as LDC w.e.f. 2nd September 1996 and during the above period he did not commit any misconduct and performed his duty with the satisfaction of all the officers of the management.

That Shri R. S. Singhi, Consultant issued a letter to Shri Ramesh Chander, LDC on 7th January 1998 and directed the workman to put up two files indicated in the letter failing which the workman will be suspended and disciplinary action will also be initiated against him. Copy of the said letter is annexed as Annexure-E and the workman also replied and denied the charges, the copy of the same is annexed as Annexure-F.

That the management without issuing any charge sheet, conducting inquiry on the misconduct as per letter dated 7th January 1998 the services of the workman were terminated w.e.f. 21-08-1998 without following the provision of natural justice. Copy of the termination letter is annexed as Annexure-G.

That the order of termination is camouflage and the said order is only based on the show cause notice issued by Shri R. S. Singhi, Consultant dated 7th January, 1998.

That similarly Shri Rajender Kumar, Research Assistant, who was also terminated along with the workman, but he was employed w.e.f. 25-05-2000 but the workman Shri Ramesh Chander was denied the same which is also discriminatory.

That the workman had performed his duties with the management w.e.f. 01-04-1986 to 30-09-1988 as Peon and also worked as LDC w.e.f. 01-10-1988 to 01-09-1996 and thereafter his services were regularised w.e.f. 02-09-1996 and the management terminated his services w.e.f. 21-08-1998 without one month's notice or one month pay in lieu of the notice and also did not pay compensation, gratuity etc. and without holding domestic inquiry, so the termination of the services of the workman is also illegal, unjustified and unfair.

That the workman is entitled to be regularised from the same date when Shri Gulshan Chadha a junior daily wagger LDC who was appointed w.e.f. 1st January, 1989 and his services were regularised w.e.f. 1st September, 1994 so the workman Shri Ramesh Chander is also entitled to be regularised in the post of LDC from the same date when his junior Gulshan Chadha was regularised w.e.f. 1st September, 1994.

That the workman is also entitled to be reinstated with full back wages and continuity of service from the date of the termination w.e.f. 21-08-1998.

That the workman had performed his duty w.e.f. 1st April, 1986 to 30-09-1988 as Peon on daily wages and also

performed his duty as LDC on daily wages w.e.f. 1st October, 1988 to 01-09-1996 and the work of Shri Ramesh Chander was the same as his counterpart in the regular establishment as Peon and LDC were performing. So Shri Ramesh Chander is also entitled to the same wages during the period of Peon and LDC as referred to hereinabove.

That as per the Office Memorandum issued by the Ministry of Personnel, Public Grievances & Pensions, Deptt. of Personnel and Training, Government of India dated 07-06-1988 the daily rated workers are also entitled the same wages equivalent to their counterpart. Copy of the said O.M. dated 07-06-1988 is annexed as Annexure-H.

That the workman Shri Ramesh Chander is still unemployed due to stigma of termination without holding domestic inquiry, so he is entitled to full back wages and continuity of service.

It is therefore, respectfully prayed that this Hon'ble Tribunal may be pleased to :—

- (a) award the equal wage for equal work to the workman Shri Ramesh Chander as Peon w.e.f. 01-04-1986 to 30-09-1988 and also award the wages equal to the LDC w.e.f. 01-10-1988 to 01-09-1996 with all consequential benefits;
- (b) award reinstatement of Shri Ramesh Chander in the category of LDC w.e.f. 21-08-1998 with full back wages, continuity of service along with all consequential benefits;
- (c) award any other relief as this Hon'ble Tribunal may deem fit and proper in the interest of justice and fair play.

The management has filed written statement. In the written statement it has been stated that the dispute raised by the workman is a frivolous and vexatious dispute. The service of the workman has not been illegally terminated. It is humbly submitted that the services of the workman was terminated in accordance with the terms of his service contained in Para 2 (i) of his appointment letter dated 26-06-1996. Moreover his services were also found unsatisfactory because of the negligence and the irresponsible manner in handling the work and files allotted under his custody and supervision, which had led to the disappearance of two files from his custody. The said workman who was earlier employed on daily wage basis had been offered a post of Lower Division Clerk as per the terms and conditions contained in the offer of appointment dated 26-06-1996 in which it was clearly stipulated that the workman was on probation for two years which could be extended for further period at the discretion of the competent authority and that the services of the workman could be terminated without giving any reason by giving one month's notice or by making payment to the appointee a sum equivalent to the pay and allowances for the period

of the notice or the unexpired portion thereof. A copy of the offer letter (memorandum) dated 26-06-1996 is marked and annexed as Annexure-1.

It is humbly submitted that it is well settled proposition of law that the parity in pay scale is for equal work. Therefore, the concept of equal pay for equal work is applicable amongst equals, i.e. amongst persons who are appointed in equal position, the same has recently been ratified by various courts, including the highest Court of the Land i.e. Supreme Court of India during the course of various pronouncements. Hence, it is humbly submitted that the workman who was a daily wager before he was offered regular employment as LDC vide the office order dated 26-06-1996 could not have been given same pay and benefits as applicable to a regular employee in the same position. The management craves leave of this Hon'ble Forum to refer to and rely upon the case law in this respect at the time of hearing.

It is most humbly submitted that it is a well settled proposition of law that the services of a probationer may be terminated during probation if his performance is not satisfactory and the appointing authority reserves the right to terminate the services of the appointee forthwith or before the expiry of the notice period by making payment to the appointee a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof. Therefore, if the performance of the employee concerned during the period of probation is not found to be satisfactory, on an overall assessment then it is open to the competent authority to terminate his service as per the procedure enunciated above.

That Shri Ramesh Chander was appointed as a daily wager Peon in April, 1986 in CAPART. He was engaged as LDC on daily wages basis w.e.f. September, 1988 and his services were discontinued in April, 1989. He was again engaged as LDC on daily wages basis in the month of March, 1990 and his services were regularised w.e.f. 02-09-1996. In September 1996 he was appointed as LDC on regular basis at Regional Committee at Jaipur by the memorandum bearing No. 2-8/93-Admn. and dated 26-06-1996. A copy of the memorandum dated 26-06-1996 is marked and annexed as Annexure 1. Shri Ramesh Chander was paid at the statutory rate during the period he was on daily wage. When regularised he was paid pay and allowances of the sanctioned scale of pay and allowances thereon.

That Shri Ramesh Chander, LDC was assigned the following work by the office order No. F1 (14) CAPART/NZRC/96 dated 10-09-1996 under the overall supervision of Assistant Director, CAPART, NZRC, Jaipur:—

- (1) Opening and maintenance of project related files. All files should be properly arranged Scheme-wise/State-wise and should be kept in the Almirahs under lock and key. He will link

the dak papers related to projects to relevant files and put up those files to A. D. for further action.

- (2) Maintenance of files/registers under the guidance of A.D.
- (3) All files give to RA/AD for processing will be noted in a File Movement Register.
- (4) Sale and Receipt of CAPART Publications and complete charge of stock Register, Cash Memos etc.
- (5) Typing and other work assigned from time to time.

A copy of the said order dated 10-09-1996 is annexed as Annexure 1-A.

It is further submitted that Shri Ramesh Chander, LDC was posted in this Regional Centre w.e.f. 02-09-96 and he was allotted the work of Record Room i.e. all the project files were in his charge and custody under lock and key. Whenever any file was requisitioned by AD/RA, it was made available to the concerned after entering the same in the file movement register maintained by him and after obtaining signatures of the concerned official in token of having received the file. The date of return of the file was also to be invariably entered when it was returned to him after doing the needful. In spite of repeated instructions in several cases he did not enter the date of return of the file in the file movement register, intentionally or due to negligence on his part. It is submitted that because of his negligence the two said files were reported to be missing from his custody and Shri Ramesh Chander was not able to give satisfactory explanation except that the files were not available in his Almirah and might have been taken away by the Assistant Director.

That Shri Ramesh Chander was asked to trace file No. 1125-20/95-96-JRY-Housing-CAPART (Gramodyog Shiksha Samiti (Rajasthan) and file No. 725-1/96-97-DWP-CAPART [Sri Gita Shikshan Avam Prashikshan Sansthan (Rajasthan)] which were earlier kept under his supervision and custody. He was given many opportunities to trace out and submit the files in question that could be perused vide letter dated 07-01-1998 bearing No. Consultant/NZRC/98 addressed to Shri Ramesh Chander from Mr. R. S. Singh, the Consultant, Northern Regional Office, CAPART, Jaipur. A copy of the letter dated 07-01-1998 is marked and annexed as Annexure-2.

Accordingly, the Director General, CAPART, New Delhi vide an order dated August, 1998 and bearing number F.No. 14931/98 AED terminated the services of the workman, Shri Ramesh Chander in accordance with the terms of his service contained in para 2(i) of his appointment letter dated 26-06-1996. A copy of the order dated August, 1998 is marked and annexed as Annexure 3. It is pertinent

to observe that Shri Ramesh Chander had been in the employment of CAPART for 12 years. 10 years of his service were irregular (daily rated) and about two years of service were on regular basis but on probation. He however failed to successfully complete his period of probation. Accordingly, his services were terminated as per terms and conditions of his appointment. Though, he made a representation for review of the order of termination, since disciplinary procedures under CAPART Rules [CCS(CCA) Rules, 1965] are not applicable to employees on probation, there was no scope for reviewing the order of termination under the said rules and also, the management was not required to hold an inquiry during the probation period.

That Rule 12(2)(ii) of the Service Bye Laws, CAPART provides that CAPART shall have a right to terminate the services of an employee without assigning any reason at any time during the period of probation by giving one month's notice. Rule 12(2)(ii) reads as under :

(ii) in the case of a person appointed by direct recruitment, terminate his/her services under the Council without assigning any reason by giving one month's notice.

In the present case, the workman was paid one month's salary in lieu of one month's notice and his service was terminated since his work was not found to be satisfactory.

That Shri Ramesh Chander was sent a cheque bearing No. 508139 dated 14-01-2002 in lieu of the one month's notice on 15-01-2002 which was returned by Shri Ramesh Chander vide a letter dated 17-01-2002 to the CAPART, New Delhi.

Moreover, the conduct and behaviour of Shri Ramesh Chander was not cordial with his colleagues and superiors, and he was in constant habit of misbehaving with them. The letter bearing No. F 1() ESTT/CAPART-NZRC/97 and dated 23-11-1997 bears the testimony of the fact that he persistently used to misbehave with his colleagues and seniors.

From the above it is clear that the action of the management was not unfair or illegal. In fact, the workman was given sufficient time and opportunity to produce the missing files under his custody. As much as, his service was also under probation and the management finding it out that his service was un-satisfactory, lawfully terminated him under the terms of probation along with a pay cheque bearing No. 508139 dated 14-01-2002 in lieu of one month's notice that was returned back to CAPART by the workman vide letter dated 17-01-2002. It is therefore, respectfully submitted that the present claim raised by the employee should be dismissed out rightly as the action of the management was fully fair, just and legal.

That Shri Ramesh Chander was engaged as LDC on daily wages basis w.e.f. September, 1988 and his services

were discontinued in April, 1989. He was again engaged as LDC on daily wages basis in the month of March, 1990 and his services were regularized w.e.f. 02-09-1996.

That both the daily wagger LDCs—Shri Ramesh Chander and Shri Gulshan Chadha were given a test for regular appointment as LDC. While Shri Chadha qualified in the test, Shri Ramesh Chander did not qualify and hence was not appointed on regular basis as LDC.

That Shri Gulshan Chadha who qualified in the test was appointed on regular basis and posted in the vacancy available at CAPART Hqrs. in Delhi.

That when a vacancy of LDC became available at CAPART Regional Committee at Jaipur, he was directed to appear in the typing test so that he could be appointed on regular basis.

That on his qualifying in the typing test, Shri Ramesh Chander was offered an appointment of LDC in RC, Jaipur vide Memorandum No. 2-8/93-Admn. Dated 26-06-1996. The offer of appointment issued to Shri Ramesh Chander was accepted by him for appointment in CAPART, RC, Jaipur.

That on acceptance of the offer of appointment, an office order dated 21-08-1996 was issued by the CAPART appointing him as LDC in RC, Jaipur. The office order dated 10-09-1996 issued by the RC, Jaipur is merely an allocation of work to Shri Ramesh Chander.

That the performance of Shri Ramesh Chander during his appointment as LDC in RC, Jaipur were found to be un-satisfactory. He was not attending to his work seriously and lost very important files under his custody. He was given many opportunities to trace out the missing files. He did not perform his duties seriously and caused loss to the Council.

That Shri Ramesh Chander on a probation period of two years and his work and conduct was found un-satisfactory during this period. His services were, therefore, terminated by the Competent Authority in accordance with the terms and conditions relating to his appointment in the Council and sub-para 1(i) of para 13 of the CAPART's Bye Laws.

That the services of Shri Ramesh Chander as LDC on probation were terminated for his un-satisfactory work and conduct as per the terms and conditions of his appointment in the Council.

That the services of Shri Rajender Kumar, Research Assistant were terminated on different grounds and consequently both cases cannot be compared.

That Shri Ramesh Chander worked on daily wage basis as Peon and LDC in broken period till 1996. He was appointed as LDC on regular basis on probation period of two years w.e.f. 02-09-1996. His services were terminated

during the probation period in accordance with the terms and conditions of his appointment for unsatisfactory work and conduct. As per sub-para 1(i) of Para 13 of the bye-laws of CAPART Shri Ramesh Chander was sent a cheque of one month's pay in lieu of notice period of one month which he did not accept.

That the contentions of the petitioner are incorrect. The petitioner and Shri Gulshan Chadha were engaged as LDC on daily wage in 1988 and their services were terminated in August, 1989. They were again re-engaged as LDC on daily wages in 1990. For their regularization on the posts of LDC they were administered a test in 1994. While Shri Gulshan Chadha qualified in the test, Shri Ramesh Chander could not qualify. Hence Shri Ramesh Chander could not be appointed on regular basis in 1994 along with Shri Gulshan Chadha.

That the petitioner was engaged on daily wage basis first as Peon and then as LDC. He, therefore, is not entitled to equal pay as is admissible to regular peon and LDC who are appointed on specific pay scales. The concept of equal pay for equal work is applicable amongst equals i.e. appointed in equal positions under equal circumstances.

That Office Memorandum No. 49014/2/86-Estt(C) dated 7th June, 1986 of the DOPT lays down the policy for recruitment of casual workers and persons on daily wages. The payments of casual workers (including the petitioner) on daily wage were paid as per the prescribed norms.

That on his regular appointment as LDC w.e.f. 02-09-1996, Shri Ramesh Chander was placed on probation period of two years. During the probation period his work and conduct was not found satisfactory. His services were therefore, terminated in accordance with the terms and conditions of the offer of appointment issued to Shri Ramesh Chander, which was accepted by him.

In view of the fact and circumstances stated hereinabove, it is most respectfully prayed that the present claim of the claimant be dismissed with heavy exemplary costs being frivolous, mala fide and vexatious being filed without any cogent and valid grounds for reinstatement of the workman when he was terminated during the probation period in accordance to the terms of the service contained in his appointment letter, and, moreover, when his performance was found to be unsatisfactory for the suitability for the post.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

From perusal of the pleading and argument submitted by both the parties the following points for determination arise:

- (1) Whether the workman Shri Ramesh Chander is entitled to equal wages for equal work for the period 01-04-1986 to 30-09-1988 and 01-10-1988 to 01-09-1996.
- (2) Whether the termination order is illegal.
- (3) What relief the workman is entitled to.

Point No. 1

It was submitted from the side of the workman that he discharged all the duties of Peon w.e.f. 01-04-1986 to 30-09-1988 and he has discharged all the duties of LDC from 01-10-1988 to 01-09-1996.

It was submitted from the side of the management that it has been held in (2003) 1 SCC 250 as under:—

“Equal pay for equal work—Applicability of the principle of, held, depends not only on the nature or volume of work but also on the qualitative difference in reliability and responsibilities as well—Even in case of same functions, responsibilities do make a real and substantial difference—It is for the claimant of parity to substantiate a clear-cut basis of equivalence and a resultant hostile discrimination—In absence of requisite substantiating material, High Court erred in granting the NMR workers/daily wagers/casual workers parity in pay with the regularly employed staff merely on presumption of equality of the nature of work—However, such workers held entitled to payment of prescribed minimum wages.”

It was submitted from the side of the workman that MW1 has admitted that Shri Ramesh Chander had been performing his duties as Peon on daily wages w.e.f. 28-04-1986 to 03-09-1988. The management witness has further admitted that it is correct that he was performing his work as LDC on daily wages w.e.f. 01-10-1988 and his services were regularized as LDC w.e.f. 02-09-1996. The management witness has further admitted that the daily wagger peon performs the duty of carrying of files, registers, peon books, the regular peons have also been performing the same duty. He has further admitted that duty hours of Peon, regular and daily wagger are the same.

MW1 has admitted that the duty of daily wagger LDC is the custodian of files, records, entry in the peon books, entering of files in the movement register, typing, despatch etc. He has further admitted that it is also correct that regular LDCs are also doing the same type of work.

It was submitted from the side of the workman that MW1 has admitted that regular peons and daily wagger peons are performing the same duty. The management witness has again admitted that daily wagger LDCs and

regular LDCs are also doing the same type of work. So the nature or volume of work and qualitative reliability and responsibilities are the same of regular Peons/LDCs and daily wager Peons/LDCs. Equal work is being performed by the daily wager Peons and the daily wager LDCs so no discrimination should be made.

The management witness has further admitted that the instructions of the Central Government like Pay Scale, Bonus, Payment, NRA, CCA are given along with all the allowances to the employees. He has further admitted that daily wagers were allowed payments and other benefits as per the instructions of Central Government. It becomes quite obvious from the admission of MW1 that nature and volume of work, qualitative reliability and responsibilities of regular LDCs and daily wager LDCs are the same and payment is made according to the government directions. The law cited by the management adverted to above is not applicable in the facts and circumstances of the present case.

My attention was drawn to a judgment of 3 Judges Bench of the Hon'ble Supreme Court (1990) LLJ 320. It has been held that all the petitioners are entitled to equal pay at par with the persons appointed on regular basis to similar posts and discharge similar duties and are entitled to the scale of pay and all allowances revised from time to time. The instant case is covered by the judgment of 3 Judges Bench of the Hon'ble Apex Court.

It has been held in AIR 1986 Supreme Court 584—Constitution of India, Art. 39—"Equal pay for equal work"—Doctrine of, is required to be applied to persons employed on a daily wage basis—They are entitled to same wages as are paid to similarly employed employees. The persons employed on a daily wage basis in the Central Public Works Department are entitled not only to daily wages but are entitled to the same wages as other permanent employees in the department employed to do identical work. In his connection, it cannot be said that the doctrine of "equal pay for equal work" is a mere abstract doctrine and that it is not capable of being enforced in a court of law. The Central Government, the State Governments and likewise, all public sector undertakings are expected to function like model and enlightened employers and arguments that the principle of equal pay for equal work is an abstract doctrine which cannot be enforced in a court of law should ill-come from the mouths of the State and State Undertakings.

In view of the above judgments of the Hon'ble Apex Court the workman is entitled to get equal wages for the equal work while working as daily wages Peon and daily wages LDC. The management witness has admitted that payment to such employees is made according to government directions.

The instant case is covered by the judgment of the Hon'ble Apex Court as cited above. The law cited by the

management is not applicable in the facts and circumstances of the present case as MW1 has admitted that nature or volume of work and reliability of daily wages and regular employees are the same. The duty hours and the functions are exactly the same.

The workman is entitled to get equal wages of permanent employees for the period from 01-04-1986 to 30-09-1988 and w.e.f. 01-10-1988 to 01-09-1996. This point is decided accordingly.

Point No. 2—Whether the termination order is illegal :

It was submitted from the side of the workman that he was appointed as regular LDCs w.e.f. 26-06-1996 on probation of two years. His services were terminated on 21-08-1998.

It was further submitted that clause 2(i) is not reasonable. It is arbitrary. It has been mentioned in 2(i) as under :—

"(i). The appointee will be on probation for a period of two years which will be extended at the discretion of the competent authority. If no orders are passed by the competent authority on expiry of the said period of two years, the period of probation shall be deemed to have been extended till such time as specific orders are passed in this regard. During the probation, he will be required to undergo such training etc. as may be considered necessary, as part of duty. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiry of notice period by making payment to the appointee a sum of equivalent to the pay and allowances for the period of notice or the unexpired portion thereof."

It was submitted that this stipulation in the letter of appointment is absolutely unreasonable and unjust. The stipulation of that period shall be deemed to have been extended till such as specific orders are passed in this regard is unreasonable and invalid. It has been held in a Constitution Bench Judgment AIR 1986 1571 SC that such terms in a contract of appointment are unreasonable and unconceivable. The Government cannot keep an employee on probation until confirmation is given. The workman has worked for 12 years satisfactorily and the probation period mentioned in the appointment letter has expired so he obtained a right to work.

It was further submitted that in Clause 2(i)—It has been provided that one month's notice will be given or the workman will be entitled to one month's pay in lieu of notice.

My attention was drawn to the order dated 25-05-2000 passed by the the Director General. The Chairman EC CAPART reinstated the workman Shri Rajinder Kumar and directed his reappointment as his services were not terminated vis-a-vis provision of Bye Laws 12 (i) and 12 (ii)

and 13 (1) (I). It was mandatory by giving one month's notice or making payment of one month's salary which has not been done in this case so termination of service is illegal in view of clause 2(i), 129(1), 2 (II) and 13 (1)(I).

On this aspect of the matter the termination of the services of the workman is illegal and arbitrary and he deserves reinstatement.

My attention was drawn to a judgment of Hon'ble Supreme Court (2005) 7 SCC cases 447. It has been held in this case that conductor as a probationer has no substantive right to hold the post and it has been further held that more so when there was no evidence to show that the termination was on the ground of any alleged misconduct.

It has been held in (2005) 2 SCC 382 that :— Termination—Probationer—Respondent appointed as probationer and his working not having been found to satisfaction of the employer, held, it was open to management to terminate his services—Discharge order ex facie showing discharge simpliciter—Evidence on record indicating incident of negligence/incompetency on part of employee, noticed by officer of employer—If discharge termination punitive in guise of discharge—Assuming that the said incident occurred prior to discharge from service, the same, cannot ipso facto be termed as a misconduct requiring an inquiry—It may be a ground for the employer's assessment of the workman's efficiency and efficacy, to retain him in service, unless, of course, the workman is able to satisfy that the management for reasons other than efficiency wanted to remove him from its services by exercising its power of discharge.

My attention was drawn to service Bye Laws Clauses 12(1) & (2). It has been provided in 12(1) & (2) as under :—

12(1). Every person appointed to a post under the Council, after the commencement of these bye laws, whether by promotion or by direct recruitment, shall be on probation in such post for a period of two years.

Provided that the Appointing Authority may, in any individual case, extend the period of probation.

12(2). Where a person appointed to a post under the Council on probation is, during his/her period of probation, found unsuitable for holding that post, or has not completed his/her period of probation satisfactorily, the Appointing Authority may :

- (i) In the case of a person appointed by promotion revert him/her to the post held by him/her immediately before such appointment.
- (ii) In the case of a person appointed by direct recruitment, terminate his/her services under the Council without assigning any reason by giving one month's notice.

Service Clause 12 (2) provides that when a person is found not suitable for holding that post or has not completed his or her period of probation satisfactorily, appointing authority may terminate his or her services under the council without assigning any reason by giving one month's notice.

My attention was drawn to (2005) 1 SC 520. It has been held by the Hon'ble Apex Court that a simple termination is not stigmatic. In order to amount to a stigma the order must be in a language which imputes something over and above mere unsuitability for the job.

It was further submitted that termination of service of the workman is bad as clause 12(i) of service bye laws has not been complied with. The workman has not been paid one month's pay at the time of termination of his services. In 2002 a cheque of one month's salary was sent to the workman which he has refused. One month's pay was not given to the workman while terminating his services. It transpires from perusal of order dated 25-05-2000 that the services of Shri Rajinder Kumar were terminated without payment of one month's pay and the Chairman of the respondent found the termination illegal as the stipulation in the bye laws 12(i)(ii) and terms of appointment letter has not been complied with. Its contravention was found in contravention of the service bye laws and the stipulation of the appointment letter. So the order of the termination was set aside by the Chairman of the respondent and the workman Shri Rajinder Kumar was reinstated in service.

It has been held in a Constitution Bench Judgment (1975) 2 SCR page 619 that the regulations have force of law and the employees are entitled to the declaration of being in employment when their disposal or removal is in contravention of the regulations.

There is stipulation that in case services are terminated, during the termination period pay of one month should be given to the concerned workman. The management has not paid one month's salary at the time of termination of the services of the workman. So termination has not been validly effected.

It is true that the termination order is not stigmatic. The services of the workman were terminated within the period of probation of two years period so he has not obtained any right to the post. No inquiry is needed in case termination is not stigmatic and punitive.

The management has not paid one month's salary at the time of termination of his services in view of Section 12(i) of the service bye laws. The service bye laws have force of law. So in the eye of law the services of the workman is not terminated. In case of illegal termination there will be no cessation of service. It is settled law that pay in lieu of one month's notice is to be paid at the time of termination and it cannot be paid subsequently after 2 years. In the

instant case a cheque has been given to the workman applicant in 2002 which has been refused by the workman applicant. It has been held in a catena of case that compensation and pay in lieu of notice should be given along with the termination order. In case it has not been done valid termination is not effected and the employee is deemed in service.

One employee Shri Rajinder Kumar has been reinstated on this very ground by the Chairman. In view of the above discussions it becomes quite obvious that the termination of services of the workman is illegal as one month's pay in lieu of notice has not been given to him and his services have been terminated after a period of 12 years service. The termination is illegal. This point is decided accordingly.

In view of the above findings on point no. 2 the workman deserves reinstatement. It is admitted to the management that the workman has served the department for 12 long years. It has been held in (2006) 2 SCC 282 that full back wages should not be granted as natural consequences of reinstatement. The workman has taken the plea that he remained unemployed due to stigma of termination and he is entitled to full back wages. There is no plea of the management that the workman is employed in any establishment. No proof of non-employment can be filed. The workman is a typist. He may be doing typing work off and on. He has rendered 12 years of service in the department as Peon and as LDC so in the facts and a circumstances of the case he is entitled to get 25% back wages along with all the consequential benefits and continuity of service.

The reference is replied thus :—

- (1) The demand of the Union in relation to equal wages for equal work as performed by Shri Ramesh Chander for performing the work at par with the permanent employees for the period w.e.f. 01-04-1986 to 30-09-1988 as Peon and w.e.f. 01-10-1988 to 01-09-1996 is just, fair and legal. The workman is entitled to get the arrears of back wages w.e.f. 01-04-1986 to 30-09-1988 and 01-10-1988 to 01-09-1996 as his co-employees taken on regular basis have been given.
- (2) The action of the management of Council for Advancement of Pupil's Action and Rural Technology, New Delhi in terminating the services of Shri Ramesh Chander, Ex. Clerk w.e.f. 21-08-1998 during probation period for not obeying the lawful order of competent authority, without holding domestic inquiry is neither just nor fair nor legal. The workman applicant is entitled to be reinstated w.e.f. 21-08-1998 along with all the consequential benefits and continuity of service with 25% back wages. The management is directed to

pay the entire arrears of wages and reinstate the workman applicant within two months from the date of the publication of the award.

Award is given accordingly.

Date : 11-09-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4018.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (शिकायत नम्बर 02/2002 धारा 33 ए के अंतर्गत) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-09-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol (filed under Section 33-A in the matter of Complaint No. 02 of 2002) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kuardih Colliery of ECL and their workmen, which was received by the Central Government on 14-09-2006.

[No. L-22013/1/2006-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

COMPLAINT CASE NO. 02 OF 2002

PRESENT

Shri Md. Sarfaraz Khan, Presiding Officer

PARTIES

Shri Rajkumar Singh, Driver, Kuardih Colliery of ECL.

Vrs.

M/s. Eastern Coalfields Ltd, Sanctoria, Dishergarh
Burdwan & Others

REPRESENTATIVES

For the Applicant : Shri S. Mukherjee,
Advocate.

For the Opposite Party : Sri P. K. Goswami,
Advocate.

INDUSTRY : COAL.

STATE : WEST BENGAL

New Delhi, the 14th September, 2006

Dated the 26-07-2006.

ORDER

An application under Section 33-A of the Industrial Disputes Act, 1947 was filed on behalf of Shri Rajkumar Singh, Driver, Kuardih Colliery, E. C. Ltd., P.O. : Kalipahari, P. S. : Raniganj, Distt ; Burdwan complainant against M/s. Eastern Coalfields Ltd., Sanctoria, P. O. : Dishergarh, P.S. : Kult, Distt. : Burdwan and 3 other opposite parties praying therein to restrain the opposite parties for change of service of the complainant and to take other suitable action against them. It was registered as a Complaint Case No. 02 of 2002 on 7-5-02 and accordingly an order was passed to issue notices to the parties concerned through the registered post. Pursuant to the order notices were issued to the Opposite parties fixing 16-7-2002 to appear in the court directing them to file their show cause along with their documents and a list of witnesses in support of their case. Shri P. K. Goswami, Advocate appeared in the court on behalf of the opposite parties and filed a letter of authority duly authorized and issued by the management. A written statement was also filed by the side of the management i.e. opposite parties.

From perusal of the record it transpires that the record was fixed for filing documents by the parties. It is further clear from the order sheets of the record that the applicant left taking any step on its behalf with effect from 25-08-05 and thereafter several adjournments were granted for the appearance of the applicant but to no effect. These all facts and circumstances go to indicate that the applicant has got no interest and does not want to proceed with the case further. As such it is not advisable to keep the record pending any more. Accordingly it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The application is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का.आ. 4019.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 156/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-09-2006 को प्राप्त हुआ था।

[सं. एल-22012/118/1998-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

S.O. 4019.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 156/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 14-09-2006.

[No. L-22012/118/1998-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT

Shri Md. Sarfaraz Khan, Presiding Officer

REFERENCE NO. 156 OF 1999**PARTIES**

The Agent, Victoria West Colliery of M/s. BCCL, Barakar, Burdwan.

Vrs.

The Branch Secretary, Janta Mazdoor Sangh, Damagoria Colliery, Kalyaneshwari, Burdwan.

REPRESENTATIVES

For the management : Shri S. K. Patra, Sr. P.O., Victoria West Colliery.

For the union (Workman) : Sri S. K. Singh, Area Working President, Janta Mazdoor Sangh, Damagoria Colliery.

INDUSTRY : COAL.

STATE : WEST BENGAL

Dated the 18-08-2005

AWARD

1. In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/118/99/IR (CM-II) dated 31-08-1999/08-09-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Victoria West Colliery of M/s. BCCL in dismissing the services of Sh. Parmeshwar Mahato, Underground Loader is justified? If not, to what relief is the workman entitled?"

2. After receipt of the Order No. L-22012/118/99/IR (CM-II) dated 08-09-1999 in relation to the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 156 of 1999 was registered on 23-09-1999/08-10-2001 and an order was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date so fixed and file their written statement along with their documents and a list of witnesses in support of their cases. Pursuant to the notices issued by the order of the Tribunal, both the parties appeared in the court. Sri S. K. Singh, Area Working President of the union and Sri S. K. Patra, Senior P.O., Victoria West Colliery along with a letter of authority appeared representing the union and the management respectively. Written statements were also filed on their behalf.

3. In brief compass the case of the union as set forth in its written statement is that Sh. Parmeshwar Mahto, Underground Loader was a permanent employee of Victoria West Colliery of M/s. B.C.C.L. He was chargesheeted vide Chargesheet No. 698 dated 2-12-1995 under Sub-section 26.1.1 of Certified Standing Orders of M/s. B.C.C.L.

4. The main case of the union is that under Sub-section 26.1.1. charges of "habitual late attendance or wilful or habitual absentee from duty without sufficient cause" was alleged but the same could not be proved during the enquiry proceeding conducted against the workman concerned. During the enquiry proceeding only charge of absents from duty unauthorisedly since 3-6-95 is proved which is another charge, different from the charges alleged under Sub-section 26.1.1. of the Certified Standing Order of the company.

5. It is also the case of the union that under Sub-section 27.2.3 of Certified Standing Order of M/s. B.C.C.L. if during the enquiry it is found that the workman is guilty of a misconduct other than stated in the chargesheet the workman should be liable to punishment for such misconduct but before any punishment is imposed on him. He should be afforded opportunity of explaining and defending his action in respect of such other misconduct but in the present case no opportunity to defend his case has been given to the workman concerned by the management. Besides this the charges proved against the delinquent workman in respect of unauthorized absence from duty is claimed to be minor and punishment of dismissal imposed is harsh and capital one. The union has sought a relief that the order of dismissal passed against the workman be declared illegal and unjustified and against the provision of the Certified Standing Orders of the company and the management be directed to reinstate the workman concerned with all the back wages with effect from 1-7-96 to the date of reinstatement.

6. On the other hand the case of the management as per its written statement in short is that the very dispute

referred by the appropriate Govt. before the Tribunal is entirely a misconceived one as there exists no industrial dispute over the schedule of reference, as otherwise represented by the union.

7. The main case of the management is that the concerned workman was chargesheeted by the management under the clause 26.1.1 of the Standing Orders as he wilfully absented from his duty from 3-6-95 to 1-12-95 without any information or prior permission. Clause 26.1.1. of the Standing Order deals with both habitual attendance or wilful or habitual absence from duty without sufficient cause. The chargesheeted workman had submitted his reply to the said chargesheet but the explanation submitted by the workman was found totally unsatisfactory and as such a domestic enquiry was held where all reasonable opportunity was given to the concerned workman to defend himself. The Enquiry Officer held the workman guilty for the commission of misconduct and accordingly submitted its report before the competent authority who after careful consideration of the gravity of the misconduct awarded punishment of dismissal of the workman concerned. The punishment awarded to the delinquent workman is claimed to be just, proper, legal and quite proportionate.

8. It is also the defence case of the management that the chargesheeted workman was also habitual absentee and this attendance for the last 3 years prior to the date of issue of chargesheet are shown as under : 1993—24 days, 1994—52 days and 1995—06 days. The management has further denied the averments made in paras 3 & 4 of the written statement of the union with regard to the allegation that the charge of habitual late attendance or wilful habitual absence from duty could not be proved and the charges proved are different in nature which is claimed to be covered under clause 27.2.3 of the Standing Order. The management has claimed that the punishment awarded is neither capital nor harsh or disproportionate in any manner and as such the workman concerned is not entitled to any relief or reliefs claimed by the union and a no dispute award be passed.

9. On perusal of the record it transpires that on 16-12-02 a hearing on the preliminary point was made. The validity and fairness of the enquiry proceeding was not challenged by the side of the union as admittedly the delinquent workman had duly participated in the enquiry proceeding. So the enquiry proceeding was held to be fair and valid and as such the date for final hearing of this dispute on merit was fixed which was taken up for final hearing on 17-03-05 and after concluding the hearing the award was kept reserved for order.

10. In view of the pleadings of the parties and the materials available on the record I do find certain facts which are admitted by the respective parties. So before entering into the discussion of the merit of the case I would like to mention the facts which are admitted one.

11. It is the admitted fact that Sh. Parmeshwar Mahto was the permanent employee of Victoria West Colliery of M/s. B.C.C.L. where he was working as an Underground Loader.

12. It is also the admitted fact that the delinquent workman was absent from his duty with effect from 3-6-95 to 1-12-95 without any information and prior permission of the management.

13. It is the next admitted fact that the workman concerned was charged under Sub-section 26.1.1. for the charges of habitual late attendance or wilful or habitual absence from duty without sufficient cause with effect from 3-6-95 to 1-12-95 and a reply to the said charge sheet was submitted. A domestic enquiry for the said charge is admittedly held in which the workman duly participated and sufficient opportunity to defend himself was given. It is also clearly admitted that the witnesses MW.1, MW.2 and MW.3 were examined by the side of the management during the course of the domestic enquiry.

14. It is lastly admitted fact that during enquiry proceeding some witnesses from the side of the management in presence of the workman were examined and in this domestic enquiry the delinquent workman was held guilty for the misconduct by the Enquiry Officer.

15. It is the settled cardinal principle of the law of evidence that the facts admitted need not be proved. Since these all facts mentioned above are admitted one, so I do not think proper to discuss the same in detail.

In view of the pleadings of the parties the following issues were framed for discussion :—

- (1) Is the reference in hand misconceived one, bad in the eye of law and beyond the scope of Industrial Dispute Act, 1947 ?
- (2) Is the charge of a misconduct framed under Section 26.1.1. of the Certified Standing Order against the delinquent workman Sh. Parmeshwar Mahto, Underground Loader applicable and established against him during the course of Enquiry Proceeding or not ?
- (3) Is the punishment of dismissal awarded to the workman concerned just, legal and proportionate to the gravity of misconduct ?

17. **ISSUE NO. 1 :** This issue has been taken first for the purpose of the convenience. The management has pleaded in para 1 of its written statement that the instant reference is bad in the eye of law and the facts as well as the circumstance of the case is misconceived one. But the aforesaid facts has not been happily pleaded in the written statement nor it has been mentioned to show as to how the reference is bad in the eye of law and the same is not legally maintainable. Besides this it is clear from the record

itself that the aforesaid issue was neither raised nor pressed by the management even during the course of final hearing of the reference. The management has neither examined any oral witness nor tendered even a chit of paper in support of its plea. As such I do not find any defect in the maintainability of this reference and the facts of the case very well comes under the purview of Industrial Disputes Act. The Govt. of India through the Ministry of Labour has rightly referred the dispute to this Tribunal for adjudication and as such this issue is decided against the management.

18. **ISSUE NO. 2 :** This issue is important one which involves the question of facts and laws as well. So it has been taken up discussion on priority basis.

19. It transpires from the record that the union has taken the plea in para 3 of its written statement that admittedly the charge was framed against the workman under Section 26.1.1. of the Certified Standing Order but the same has neither been supported by the management witnesses MW.1, MW.2 & MW.3 nor the charge could be established during the enquiry proceeding.

20. It is further pleaded in para 2 of the written statement that during enquiry proceeding only charge of absenting from duty unauthorized since 3-6-95 is proved which is claimed to be an another charge, different from the charge leveled and framed under Section 26.1.1 of Certified Standing Order of the company and as such sub-section 27.2.3 of the Certified Standing Order of M/s. BCCL is applicable in this case whereas the management has totally denied the said allegation of the union in paras 10 & 11 of its written statement claiming the allegation to be misleading, irrelevant and inconsistent to the present facts and circumstances of the case.

21. From the perusal of the provision laid down in the Certified Standing Orders of the establishment under BCCL it transpires that under Sub-section 26.0 the chapter "Act of Misconduct" has been laid down which prescribes different nature of offences right from Section 26.1.1 to 26.1.33 which comes under the purview of the misconduct. The sub-section 26.1.1 for which the workman concerned has been charged deals with the habitual late attendance or wilful or habitual absence from duty without sufficient cause. The charge of un-authorized absence from duty is also included in the said sub-section as there is no separate independent provision for the said charge in the said Standing Order. So it cannot be said that absenting from duty unauthorisedly is a different Act of Misconduct and as such the provision under Sub-section 27.2.3 of the Certified Standing Orders is not at all applicable in the facts and circumstance of the case. Besides this the workman concerned has clearly admitted in his explanation that in future he will never made him absent from duty. Apart from this the workman has further admitted in his statement before the Enquiry Officer that he did not inform

earlier the reason of his absence to the colliery authority. There also he had admitted his guilt and begged apology for the same. It is also clear from the averment made in the written statement that the union has nowhere pleaded in his written statement about the reasons of his unauthorized absence from the duty w.e.f. 3-6-95 to 1-12-95.

22. Having gone through the entire facts, circumstance, enquiry proceeding and the finding of the Enquiry Officer I find that the workman concerned was admittedly absent wilfully from his duty w.e.f. 3-6-95 to 1-12-95 without any information or prior permission of the competent authority of the colliery. As such this issue is decided against the workman concerned represented through the union and accordingly this issue is disposed of.

23. **ISSUE NO. 3.** This issue is the crux of the dispute upon which the fate of the reference hinges upon.

24. Heard both the parties on the aforesaid points in issue. It was admitted by the side of the union that it is a simple case of unauthorized absence for about six months and the absence from duty during the relevant period is duly explained. It is mentioned in the explanation tendered by the workman that he could not attend his duty as his wife was sick. During the course of enquiry proceeding his statement was also recorded by the Enquiry Officer where the workman has categorically stated that due to his wife's serious illness he could not attend his duty. Her treatment was being done by Kabiraj at his native village. It is further stated that there was no other male member in his family who could look after his wife. He could also not send any information earlier about the reason of his absence to the colliery authority as he was not sure of the rule that the management is to be informed about the reason of absence. It was further submitted by the union that the workman concerned had admitted his guilt and begged apology for the same. The attention of the court was drawn towards the finding of the Enquiry Officer where it has been mentioned that Sri Parmeshwar Mahto absented duty unauthorisedly since 3-6-95 and as such he was found guilty. It is clear from the report itself that the Enquiry Officer was satisfied with the reasons of absence from duty of the workman concerned and that is why the Enquiry Officer in his finding has not even whispered a word that the unauthorized absence was without any sufficient cause. I find some force in the argument of the union side and I am convinced to hold that the workman concerned was absent during the relevant period from his duty under the compelling circumstance beyond his control.

25. It was further argued by the union that the delinquent workman has got an unblemish record during his service tenure and since there has not been any complaint of any previous misconduct either unauthorized absence or any other sorts of. The management has also

not charge sheeted him for habitual absence nor any chit of paper in this regard has been filed in the court nor there is any specific pleading in this respect as well. So it can very well be concluded that it is the first offence of the workman which has been explained to have been committed beyond the control of the delinquent workman.

26. The further point of argument of the union is that it is a simple case of unauthorized absence under the compelling circumstance which can not be said to be a gross misconduct. The attention of the court was drawn towards the provision of the Certified Standing Order applicable to the establishment of B.C.C.L. where the extreme punishment prescribed is said to be dismissal as per the gravity of the misconduct. It was claimed that the extreme penalty can not be imposed upon the workman in such a minor case of alleged misconduct of an unauthorized absence. Perused the provision 29.0 & 29.1 of Certified Standing Order of the establishment which deals with the penalties for misconduct. Penalties have been categorized as Minor and Major penalties. (a) Stoppage of increment, (b) Reduction to a lower grade or post or a stage in a time scale (c) Dismissal or discharge from service. It is clear from the said provision that dismissal or discharge from service is the extreme penalty which is the last one amongst the major penalties prescribed.

27. It is clearly laid down in sub-section 27.27 of the C.S.O. of the establishment that in awarding the punishment, gravity of the misconduct, the previous record of the workman and any other extenuating or aggravating circumstance that may exist shall be taken into account. A copy of the order passed by the Disciplinary Authority should be supplied to the workman concerned which has been deliberately violated by the management.

28. Besides this it has been several times clearly observed by the different Hon'ble High Courts and the Apex court as well that before imposing a punishment of dismissal it is necessary for the disciplinary authority to consider socio-economic background of the workman, his family background, length of service put in by the employee, his past record and other surrounding circumstances including the nature of misconduct. These are the relevant factors which must have to be kept in mind by the authority at the time of imposing the punishment which of course has not been done by the management in this case to meet the ends of justice.

29. Admittedly the delinquent workman is an illiterate man of Mahto by caste who is the member of the weaker section of the society. He is undoubtedly financially weak and poor who has suffered a lot for about ten years and there is no proof that he was ever gainfully employed somewhere during the period after his dismissal. It is apparent that several major penalties have been prescribed under sub-clause 29.1 of the Certified Standing Order. Even if the misconduct committed by the workman is considered

to be gross misconduct some other penalties should have been awarded in place of dismissal as per the directive laid down in sub-clause 27.27 of the Standing Order. I fail to think as to why only maximum punishment provided under the said clause should be awarded in the present facts and circumstances of the case. It has been clearly observed by the Apex court that justice must be tempered with mercy and the delinquent workman be given an opportunity to reform himself and to be loyal and disciplined employee of the management.

30. However, I am of the considered view that in the present prevailing facts and circumstance of the case the punishment of dismissal for an unauthorized absence under the compelling circumstance and without any malafide intention is not just and proper rather it is too harsh punishment which is totally disproportionate to the alleged misconduct proved. Such a simple case should have been dealt with leniently by the management instead of throwing the entire family of the workman on the road to starve in these hard days by a single stroke of his pen. It is a matter of common knowledge that unemployment is a global phenomenon specially in India it is acute. Even the qualified persons are unable to get employment these days. In this view of the matter, I think it just and proper to modify and substitute the same exercising the power under Section II(A) of the Industrial Disputes Act, 1947 to meet the ends of justice and as such the impugned order of dismissal of the delinquent employee is hereby set aside and he is directed to be reinstated with the continuity of the service and in the light of the facts circumstance and the misconduct for which the punishment of dismissal was imposed on the workman concerned, I think it appropriate that the workman be imposed a punishment of stoppage of two increments without any cumulative effect. It is further directed that the workman concerned will be entitled to get only 25% of the back wages which will serve the ends of justice. Accordingly it is hereby

ORDERED

that let an "Award" be and the same is passed in favour of the workman concerned. The award will come into effect within two months from the date of notification. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4020.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

आसनसोल के पंचाट (संदर्भ संख्या 4/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/131/2000-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4020.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 14-9-2006.

[No. L-22012/131/2000-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer

Reference No. 04 of 2001

PARTIES:

Agent, Ningha(R) Colliery of ECL, Ningha, Burdwan

Vrs.

Organising Secretary, Colliery Mazdoor Congress, Asansol.

REPRESENTATIVES:

For the Management : B. Chowdhury, Advocate

For the Union : None
(Workman)

Industry : Coal

State : West Bengal

Dated the 16-6-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/131/2000-IR(C. II) dated 5-2-2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Sripur Area of M/s. ECL in not regularizing Sri Abdul Rezzak, Trammer Sirdar as sweeper supervisor is legal and justified? If not, what relief the workman concerned is entitled to and from which date?"

On receipt of the order No. L-22012/131/2000-IR(C-II) dated 5-2-2001 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute referred, a reference Case No. 4 of 2001 was registered on 15-2-01/7-11-01 and an order was passed to issue summons to the respective parties through the registered post directing them to appear in the court on the date fixed and file their written statement along with the documents and a list of witnesses in support of their case. Accordingly the notices were issued to the concerned parties through the registered post.

From perusal of the record it transpired that Sri B. Chowdhuri, Advocate appeared in the court representing the management along with a letter of authority duly authorized by the competent authority of the management. It is further clear from the record that registered notices were issued to the organizing Secretary, Colliery Mazdoor Congress (HMS), Bengal Hotel, Md. Hussein Street, P. O. Asansol, Dist. Burdwan on 15-11-01, 11-10-02 and 18-4-06 but nobody turned up to represent the union. It appears that the union has got no interest and does not want to proceed with the case.

In the present facts and circumstances of the case it is not proper to keep the record pending any more as no fruitful result is to come out. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the award to the Govt. of India Ministry of Labour, New Delhi for information and needful.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4021.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 14/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/127/2001-आईआर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4021.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern

Coalfields Limited and their workman, which was received by the Central Government on 14-9-2006.

[No. L-22012/127/2001-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer.

Reference No. 14 of 2002

PARTIES:

Agent, Haripur Colliery of ECL, Haripur, Burdwan.

Vrs.

Jt. General Secretary, Ukhra Colliery Mazdoor Union (INTUC), Cinema Road, Ukhra, Burdwan.

REPRESENTATIVES:

For the Management : Shri P. K. Das, Advocate

For the Union : Shri M. Mukherjee,
(Workman) Advocate

Industry : Coal

State : West Bengal

Dated the 28-7-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/127/2001-IR(CM. II) dated 31-5-2002 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Haripur Colliery of M/s. ECL in not rectifying the date of appointment of Shri Mukti Nath Mukherjee, Electrician as 1-1-1973 as per the records of Monderboni Colliery is legal and justified? If not, to what relief the workman is entitled to?"

After having received the order No. L-22012/127/2001-IR(CM-II) dated 31-5-2002 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference Case No. 14 of 2002 was registered on 24-6-2002/2-7-2002 and accordingly, an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and file their respective written statement along with the documents and a list of witnesses in support of their claim. Pursuant to the

Order passed notices were issued to the parties concerned through the registered post. Shri P. K. Das, Advocate appeared on behalf of the management along with an authority letter duly issued by the competent authority of the management.

From perusal of the record it transpires that twice notices were issued to the Union which were duly received by the Union as it is clear from the endorsement made in the A/D letter by the Union. The notices were properly and personally served upon the Union and accordingly received by the Union. It is further clear from the records that several adjournments were granted since the receipt of the notice by the Union but nobody turned up to represent the Union. It appears that the Union is not interested to pursue the dispute. In such circumstance it is not just and proper to keep the record pending any more as no useful purpose is to be served. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

को. ओ. 4022.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबंधित निवृत्तों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाद (संबंध संख्या 59/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/375/2003-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4022.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Bankola Colliery, Bankola Area of M/s. E. C. L. and their workman, which was received by the Central Government on 14-9-2006.

[No. L-22012/375/2003-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer.

Reference No. 59 of 2004

PARTIES:

Agent, Bankola Colliery, Bankola Area of ECL, Ukhra, Burdwan

Vrs.

Vice President, Ukhra Colliery Mazdoor Union (INTUC), Cinema Road, Ukhra, Burdwan

REPRESENTATIVES:

For the Management : None.

For the Union : None
(Workman)

Industry : Coal

State : West Bengal

Dated the 18-8-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/375/2003-IR(C-II) dated 12-10-2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Bankola Colliery under Bankola Area of M/s. ECL in dismissing Sh. Rambalak Chamar, U. M. No. 620669, U. G. Dressar from services with effect from 9-6-97 is legal and justified? If not, to what relief the workman is entitled?"

On having received the order No. L-22012/375/2003-IR(C-II) dated 12-10-2004 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute referred, a reference Case No. 59 of 2004 was registered on 4-11-04 and accordingly an order was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and to file their written statement along with the documents and a list of witnesses in support of their case. In compliance of the said order notices were issued to the parties concerned to the registered post.

From perusal of the record it transpires that notices were issued to the Vice President, Ukhra Colliery Mazdoor Union, INTUC, Cinema Road, Ukhra, Burdwan was personally served upon the union who in token of the receipt of the said registered notice put his signature on the A/D card with date 30-11-04. It is further clear from the order sheet of the record that several adjournment were given to the Union even since the date of receipt of the notice but to no effect. The non-appearance of the Union in spite of the personal service of the notice and providing

several adjournments till today itself indicates that the Union has got no interest to pursue with the record.

In such prevailing facts and circumstance of the case it is not advisable to keep the record pending any more as no useful purpose use to come out. Accordingly it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the Award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4023.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 68/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/428/2003-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4023.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of GB/KB Colliery, M/s. Eastern Coalfields Limited, and their workman, which was received by the Central Government on 14-9-2006.

[No. L-22012/428/2003-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer.

Reference No. 68 of 2004

PARTIES:

Agent, Khoirabad Colliery, under Salanpur Area of ECL, Kapista, Burdwan.

Vrs.

Sh. Snehamay Mahato, Area Secretary, West Bengal Coalfields Shramik Congress, Dabor (R) Colliery, Samdi, Burdwan.

REPRESENTATIVES:

For the Management : P. K. Goswami, Advocate.

For the Union : None
(Workman)

Industry : Coal

State : West Bengal

Dated the 23-6-2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/428/2003-IR(CM. II) dated 3-11-2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Khoirabad Colliery under Salanpur Area of M/s. ECL in dismissing Shri Saban Majhi, U. G. Loader w.e.f. 18/21-8-2001 is legal and justified? If not, to what relief the workman concerned is entitled and from which date?"

Having received the order No. L-22012/428/2003-IR(CM-II) dated 3-11-2004 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for the adjudication of the dispute referred, a reference Case No. 68 of 2004 was registered on 18-11-2004 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court and file their respective written statement along with the documents and a list of witnesses on the date fixed. Pursuant to the said orders notices were issued by the registered post to the parties concerned.

From perusal of the record it transpired that Sri P. K. Goswami, Advocate appeared on behalf of the Management along with a letter of authority duly issued by the competent authority of the management.

It is further clear from the record that the registered notice issued to Sh. Snehamay Mahato, Area Secretary, West Bengal Coalfields Shramik Congress was served personally and an endorsement to that effect has been made by him on the A/D letter on 9-12-2004. There after several adjournments were given for the appearance of the Union but to no effect.

In the prevailing facts and circumstances of the case it is not proper to keep the record pending any more in anticipation of the appearance of the Union. As such it is hereby.

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the Award to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. अ. 4024.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबंध निषेधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 49/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/381/2003-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4024.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Kunustoria Colliery, Kunustoria Area of M/s. E. C. L. and their workman, which was received by the Central Government on 14-9-2006.

[No. L-22012/381/2003-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer.

Reference No. 49 of 2004

PARTIES:

Agent, Kunustoria Colliery, Kunustoria Area of ECL,
Topsi, Burdwan.

Vs.

Sh. C. S. Banerjee, Jt. General Secretary, Ukhra
Colliery Mazdoor Union (INTUC), Cinema Road,
Ukhra, Burdwan.

REPRESENTATIVES:

For the Management : B. Chowdhury, Advocate.

For the Union : None
(Workman)

Industry : Coal

State : West Bengal

Dated the 25th July, 2006

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/381/2003-IR(C-II) dated 4-10-2004 has been pleased to refer the following dispute for adjudication by this Tribunal :

SCHEDULE

"Whether the action of the management of Kunustoria Colliery of M/s. ECL in dismissing Shri Rabin Dome, General Mazdoor vide Order No. PMC/C-6/92/1312 dated 26-7-1996 is legal and justified? If not to what relief he is entitled?"

After receipt of the order No. L-22012/381/2003-IR (C-II) dated 4-10-2004 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference Case No. 49 of 2004 was registered on 14-10-2004 and accordingly an order to that effect was passed to issue summons to the respective parties through the registered post directing them to appear in the court on the date fixed and file their respective written statement along with the documents and a list of witnesses in support of their case. Pursuant to the said order notices were issued to the respective parties through the registered post. Shri B. Chowdhury, Advocate appeared in the court to represent the management along with the letter of authority duly issued by the competent authority of the management.

On perusal of the record it transpired that in spite of the personal service of the registered notice nobody hurried up to represent the union. It is further clear from the record that the acknowledgement due card is attached with the record which indicates that Shri C. S. Banerjee, Joint General Secretary, Ukhra Colliery Mazdoor Union (INTUC) received the registered notice on 28-10-04 and put his signature on that date in token of the receipt of the same. Several adjournment were granted for the appearance Union but to no effect.

In the prevailing facts and circumstances of the case now it is not just and proper to keep the record pending any more as no useful purpose is to be served. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2006

का. आ. 4025.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. एम. पी. डी. आई. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 25/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/523/1994-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 14th September, 2006

S.O. 4025.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CMPDIL and their workman which was received by the Central Government on 14-9-2006.

[No. L-22012/523/1994-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Md. SARFARAZ KHAN, Presiding Officer.

Reference No. 25 of 1995

PARTIES:

The Regional Director, C.M.P.D.I. Ltd., G. T. Road, Asansol.

Vs.

The President, Colliery Mazdoor Sabha of India (CITU), 87, Apcar Garden, Asansol.

REPRESENTATIVES:

For the Management : Sri P. K. Das,
Advocate.

For the Union : Sri Jiten Ghosh, Asstt.
(Workman) Secretary, Colliery
Mazdoor Sabha of India,
(CITU), Asansol.

Industry : Coal State : West Bengal

Dated the 2nd August, 2006

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the

Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/523/94-IR(C-II) dated 16-5-1995 has been pleased to refer the following dispute for adjudication by this Tribunal :

SCHEDULE

"Whether the action of the management of Barmondia Drilling Camp of CMPDI Ltd. in not paying House Rent to the workers of R.I.-I is justified? If not, to what relief are the workmen entitled to?"

After having received the Order No. L-22012/523/94-IR(C-II) dated 16-5-1995 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 25 of 1995 was registered on 13-6-1995 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and file their written statement along with the documents and a list of witnesses in support of their claims. Pursuant to the said order notices were issued and Sri P. K. Das, Advocate appeared on behalf of the management along with a letter of authority duly authorized by the competent authority of the management.

From perusal of the record it transpired that both the parties have filed their written statements and documents as well. It is further clear from the record that the case was fixed for hearing on 31-5-2005 at the request of the parties representatives but the union left taking any step on its behalf since 21-7-2005. It is further clear from the record that since then several adjournments were given to the union to appear and take suitable step for final hearing of the dispute but neither the union nor the workmen concerned even appeared in the court till to date. It appears that the union has lost its interest and as such no step is being taken. As such it is not proper and advisable to keep the record pending any more. Accordingly it is hereby.

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4026.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 11/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/93/2004-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th September, 2006

S.O. 4026.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 18-9-2006.

[No. L-40012/93/2004-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 30th June, 2006

PRESENT:

Shri K. Jayaraman, Presiding Officer

Industrial Dispute No. 11/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Telecom and their workmen]

BETWEEN

Sri G. Udayakumar : I Party/Petitioner

AND

The General Manager,
Telecom, Chennai : II Party/Management

APPEARANCE:

For the Workman : Mr. S. Vaidyanathan,
Advocate

For the Management : M/s. K. Balaraman
Naidu and J. Venkatesan,
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/93/2004-IR(DU) dated 21-12-2004 has referred the following Industrial Dispute to this Tribunal for adjudication :—

“Whether the action of the General Manager, Chengalpattu SSI in terminating the services of Shri G. Udayakumar w.e.f. 10-11-95 is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I. D. No. 11/2005 and notices were issued to both the parties and both the parties entered appearance through

their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner joined the services of BSNL, the then Postal and Telegraph Department in the year 1983. The Petitioner is a physically handicapped. The Petitioner has become full time Casual Labour on 26-11-1994 and was terminated on 10-11-1995 and in spite of his several representations, the Respondent did not reinstate him into service. The Petitioner filed O. A. No. 485/96 challenging the verbal termination and prayed for direction for regular appointment in any of the Group D post. The Central Administrative Tribunal, Chennai Bench by its order dated 8-1-1999 has directed the telecommunication to disposal of the appeal pending before the Appellate Authority. The Appellate Authority by his order dated 27-9-99 rejected the Petitioner's representation and the Petitioner once again filed another O. A. No. 178/2000 and the Central Administrative Tribunal by its order dated 29-12-2000 directed the Respondent to pass revised orders within a period of three months. On 17-5-2001 the Respondent rejected the Petitioner's request to reinstate him on the ground that he was engaged as water carrier on contingency basis that too two hours per day and according to the need and wages was paid and further stated that he was not engaged on part time basis with fixed duration of duty hours per day and he had completed only 186 days and the Petitioner has served from 1-10-1993 to 30-6-1994 in Tiruvallur Exchange and from 26-4-94 to 15-6-95 he was engaged as a Casual Labour and his name has found place in the muster roll. The department asked the Casual Labour like him to maintain separate duty roaster which was countersigned by Junior Telecom Officers. He was working under the Respondent for less than four hours per day till 30-6-94 and full time work was given to him from 26-11-94 till the date of his disengagement. Thus, he has completed more than 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months. As such, he deemed to have attained the permanent status as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. Even while he was employed as water carrier he has done the work of cleaning office equipments, pouring distillery water in the bottle, sweeping and cleaning floors including toilets and so on. The Respondent has not violated the mandatory provisions of Section 25F of the I. D. Act. It is false to contend that he himself has left the department. The allegation that the Petitioner submitted bogus record to substantiate his claim is totally incorrect

and unwarranted. The Petitioner was working in the sanctioned post and the work done is perennial in nature. Hence, for all these reasons, the Petitioner prays that an award may be passed directing the Respondent to reinstate him into service as a permanent Group D employee on and from the date of completion of 480 days in a continuous period of 24 calendar months with back wages, continuity of service and other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner was never recruited/engaged in 1983 in Postal and Telegraph department. Hence, the question of joining duty with the Respondent does not arise. The Petitioner has approached the department and requested for any work. Based on his request, he was engaged as water carrier on purely contingent basis in few short spells from 23-11-94 to 25-6-95. The Petitioner was engaged to assist the staff for some specific work for 186 days. The Respondent never appointed the Petitioner as part time casual labour. Hence, the question of becoming full time Casual Labour from 26-11-94 does not arise. Since there is no further work for the Petitioner, he himself left the department. Therefore, the question of termination does not arise. Since the Petitioner has not fulfilled even for minimum qualification for regularisation as per departmental rules during the relevant period his request was not considered and his representation was disposed of accordingly. No doubt, the Petitioner has filed two OAs before Central Administrative Tribunal, Chennai Bench and this Respondent passed an order as per the judgement of Central Administrative Tribunal. Only after the disposal of the representation, the department came to know that the Petitioner has submitted bogus records to substantiate his claim. It is false to allege that he has worked for more than 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months and it is also not correct to say that apart from water carrier work, he has done the work of cleaning of office equipment, pouring water in the battery, sweeping and cleaning the floors and toilets. The Respondent has not violated the provisions of Section 25F, G and H of the I. D. Act. The Petitioner's attempt is nothing but to get back door entry. Hence, the Respondent prays that the claim may be dismissed with costs.

5. Again, the Petitioner in his rejoinder contended that his services with the Respondent/Management at Poondi Telephone Exchange, Tiruvellore Dist. as a water boy from 1-10-83 which has been certified by Mr. Vijayan, Sub Divisional Officer, Telegraphs. It is not fair on the part of the Respondent to contend that Petitioner has produced bogus records. The documents that are filed before this Tribunal pertaining to ACG 17, muster roll and working days particulars were all produced before Central Administrative Tribunal and those were accepted by that

Tribunal and not disputed by the Respondent. Since the Respondent/Management has not complied with the mandatory provisions of the Act, the Petitioner is entitled to the relief as prayed for.

6. In these circumstances, the point for my determination is :—

- (i) "Whether the action of the Respondent/Management in terminating the services of the Petitioner w.e.f. 10-11-95 is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :—

7. The Petitioner in this case alleged that he has worked as full time Casual Labour from 26-11-1994 and he was terminated from service orally on 10-11-95 and no notice of termination was given to him. Even after the orders of Central Administrative Tribunal, Chennai Bench the Respondent/Management has not considered his case and not reinstated him into service. Even prior to that the Petitioner alleged that he worked as Casual Labour at Thiruvellur Telephone Exchange from 1-10-93 to 30-6-94 and after that he was engaged as Casual Labour from 26-11-94 to 15-6-95 and it can be seen from the duty roster produced by him under Ex. W8. Thus, he has worked for more than 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months and he prayed for reinstatement.

8. But, as against this, the Respondent contended that the Petitioner was never engaged as Casual Labour and therefore, the question of becoming full time Casual Labour from 26-11-94 does not arise. The Petitioner has worked as water boy for short spell during 1993 and because of his father was working as Sub Inspector, he worked in the department from 26-11-94 to 15-6-95 for 186 days in 12 calendar months. After 15-6-95, since there was no work and since his services were no longer required, he could not be engaged and non-engagement does not mean that he was terminated from service. Further, on a perusal of the documents, submitted by the Petitioner for his engagement from the year 1983 alleged to be countersigned by the Junior Telecom Officer cannot be a genuine document because, the designation of Junior Telecom Officer came into existence only in the year 1987 and afterwards. Before the Central Administrative Tribunal, the department could not properly scrutinize the documents during the pendency of the O. A. and after going through the documents, the department has passed an order rejecting his claim. Under such circumstances, the Petitioner is not entitled to any relief.

9. In order to substantiate his claim, the Petitioner himself has examined as WW1 and produced documents as Ex. W1 to W12. On the side of the Respondent one

Mr. P. Ganesan, Divisional Engineer (Admn) of the Respondent/Management was examined as MW1 and on the side of the Respondent only one document is marked as Ex. M1. Ex. W1 is the copy of the letter from Respondent/Management to Petitioner, Ex. W2 is the copy of Central Administrative Tribunal Order in O.A. No. 178/2000, Ex. W3 is the copy of order passed by Respondent/Management, Ex. W4 is the copy of 2A petition filed by Petitioner, Ex. W5 is the copy of reply filed by Respondent before conciliation, Ex. W6 is the copy of rejoinder filed by Petitioner, Ex. W7 is the copy of reply filed by Respondent/Management, Ex. W8 is the copy of ACG-17, Ex. W9 is the copy of muster roll, Ex. W10 is the copy of representation submitted by Petitioner before Respondent/Management, Ex. W11 is the copy of working particulars and certificate issued by Sub Divisional Officer. Ex. W12 is the copy of certificate and card issued to the Petitioner as physically handicapped. Ex. M1 is the copy of letter regarding pay scales of Junior Engineers Telecom issued by Ministry of Communication.

10. The Petitioner has alleged in his claim statement and also in proof of affidavit that he has joined the Respondent/Management during the year 1983 and though he was employed as water carrier, he was asked to clean office equipments and also doing the work of sweeping and cleaning office floors and toilets and apart from that he was also attending the work of Group D namely getting coffee or tea on the instruction of officers. Subsequently, from 26-11-1994 till the date of his termination, he worked as full time employee and he has completed 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months and as such, he deemed to have attained the permanent status as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. It is their further contention that the post in which he worked is a sanctioned post and the work is of perennial in nature. The Respondent/Management has admitted his engagement but they denied only the part time employment as Casual Labour. The contention of the Respondent/Management is falsified from Ex. W8 in which the officer of the Respondent/Management has countersigned the muster roll and also from the letter of BSNL requesting the Petitioner to appear with available documents. Even though the Petitioner approached the authorities and also filed O. A. before Central Administrative Tribunal, the Respondent has not regularised his services. On the other hand, the Central Administrative Tribunal, Chennai Bench by its order dated 29-12-2000 directed the Respondent to pass a revised order by taking into consideration the observations made in the order, but unfortunately, by an order dated 17-5-2001 the request made by the Petitioner was rejected and the observation of the Central Administrative Tribunal in paras 8 and 9 of the order have been brushed aside by the Respondent/Management. When the Petitioner has

produced all the document before Central Administrative Tribunal and also before the authorities, they have not disputed the documents filed by the Petitioner, but they have rejected the claim of the Petitioner. Therefore, the termination made by the Respondent is illegal. It is the further contention of the learned counsel for the Petitioner that the Petitioner is a physically handicapped person. Therefore, under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Petitioner is entitled to be reinstated in service. Since the Petitioner is a person with disability and since he has worked under the Respondent/Management from the year 1983, the order of termination passed by the Respondent/Management is without following the mandatory provisions and it is void ab initio.

11. But, as against this, the learned counsel for the Respondent contended that no doubt the Petitioner has approached the Central Administrative Tribunal twice. No doubt, the Central Administrative Tribunal has ordered that the matter may be considered by the Respondent/Management. But, on perusal of documents submitted by the Petitioner for his engagement from the year 1983 and alleged to be countersigned by the Junior Telecom Officer, it cannot be a genuine document because the designation of JTO came into existence only after 1987 which is evident from Ex. M1 from which it is clear that the post in higher pay scale of Rs. 1640-2900 will be redesignated as Junior Telecom Officers and the posts in the lower pay scale (Rs. 1400-2300) will continue to be called as JEs Telecom. From this, it is clear that the post of Junior Engineer, Telecom was only redesignated in the year 1987, but on the other hand, the Petitioner has produced documents alleged to have been signed by Junior Telecom Officer from the year 1983, which cannot be a genuine document, only because his father was working as Sub Inspector in the postal departmental, he has obtained the seal of JTO and created this document from the year 1983. No doubt, the Petitioner has produced documents before the Central Administrative Tribunal and on the strength of this document, the Central Administrative Tribunal also has directed the Respondent to reconsider his request for employment. But, when the document was scrutinized by the department, it has come to the conclusion that this document is not a genuine and since he has not worked for 240 days in a continuous period of 12 calendar months, the department has rejected the claim of the Petitioner. When it was submitted before Central Administrative Tribunal, the department could not properly scrutinize the documents during the pendency and on that ground, it cannot be said that the documents produced by the Petitioner are genuine one. Learned counsel for the Respondent further contended that the Petitioner cannot take advantage of the observation made by the Central Administrative Tribunal in the orders passed by it. Further, when MW1 has stated that this document is not a genuine one and that there was no post of JTO during the year 1983

to 1987 and it was not cross examined by the Petitioner side and no valid reason was given to contradict this statement of MW1. Under such circumstances, it cannot be said that Ex. W8 is a genuine document.

12. I find much force in the contention of the learned counsel for the Respondent. Further, the burden of proof that the employee has worked for more than 240 days in a continuous period of 12 calendar months is upon the person who alleged the same. In this case, though the Petitioner alleged that he has worked for more than 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months, it was not established before this Tribunal with any satisfactory evidence. No doubt, the Petitioner has produced Ex. W8 namely duty roster maintained by him. When the Respondent has raised a genuine doubt with regard to signature made in the document, the burden of proving the fact that it is a genuine document is upon the Petitioner. Further, when the Respondent alleged that Junior Telecom Officer post was redesignated only in the year 1987, it is the bounden duty of the Petitioner to establish that even from the year 1983, JTO post is existing and it is only the JTO who has countersigned in his duty roster is upon the Petitioner. But, the Petitioner has not established this fact with any satisfactory evidence. Under such circumstances, I find merely because an observation was made by the Central Administrative Tribunal in its order, it cannot be said that the document is a genuine document. Under such circumstances, I find the Petitioner has not established the fact that he has worked for more than 240 days in a continuous period of 12 calendar months and therefore, it cannot be said that the Respondent has terminated the services of the Petitioner illegally. Therefore, I find this point against the Petitioner.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled ?

13. In view of my foregoing findings that the Petitioner has not established the fact that he has worked for more than 240 days in a continuous period of 12 calendar months with any satisfactory evidence, I find the Petitioner is not entitled to any relief. No Costs.

14. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 30th June, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Petitioner : WW1 Sri G. Udayakumar

For the II Party/Management : MW1 Sri P. Ganesan

Documents Marked :—

For the I Party/Petitioner :—

Ex. No.	Date	Description
W1	04-03-99	Xerox copy of the letter of Respondent/Management.
W2	29-12-00	Xerox copy of the order of Central Administrative Tribunal in OA No. 178/2000.
W3	17-05-01	Xerox copy of the order of Respondent/Management.
W4	29-04-04	Xerox copy of the 2A petition filed by Respondent.
W5	08-06-04	Xerox copy of the reply given by Respondent.
W6	18-06-04	Xerox copy of the rejoinder filed by Petitioner.
W7	23-06-04	Xerox copy of the reply given by Respondent/Management.
W8	Nil	Xerox copy of the ACG 17
W9	Nil	Xerox copy of the muster roll
W10	25-01-01	Xerox copy of the representation of Petitioner to Respondent
W11	1983—95	Xerox copy of the working particulars of Petitioner and Certified by Sub Divisional Officer
W12	28-06-90	Xerox copy of the certificate and card of Petitioner as Physically handicapped.

For the Respondent/Management :—

Ex. No.	Date	Description
M1	1987	Xerox copy of the letter from Ministry of Communication. Regarding pay scales of Junior Engineers Telecom.

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 26/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/89/2005-आई आर (डी यू)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th September, 2006

S.O. 4027.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Post and their workman which was received by the Central Government on 18-9-2006.

[No. L-40012/89/2005-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 31st July, 2006

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 26/2006

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), between the management of the Postmaster General, Chennai City Region and their workmen]

BETWEEN:

T. Deenan (Deceased) : I Party/Petitioner

AND

The Post Master General, : II Party/Management
Chennai City Region,
Chennai

APPEARANCES:

For the Petitioner : None

For the Management : None

ORDER

The Central Government, Ministry of Labour vide Order No. L-40012/89/2005-IR (DU) dated 17-5-2006 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

“Whether the management of Department of Posts, Vellore is legal and justified in terminating the services of Shri T. Deenan, the Disputant ex-employee and if not, to what relief the workman is entitled ?”

2. After the receipt of the reference, it was taken on file as I.D. No. 26/2006. In this case, notice was sent to Ist Party with regard to this dispute, but the said notice was

returned with an postal endorsement that the party died before service of notice. Then this Tribunal has asked the representative of the IInd Party/Management to ascertain the fact whether the Ist Party died before the service of the notice. In next hearing, the representative of the IInd Party/Management represented that the Ist Party/Petitioner died long back and filed a memo stating that the I party died even on 30-6-2005.

3. Therefore, in these circumstances, no Award can be passed by this Tribunal in Industrial Dispute. Finding accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 31st July, 2006.)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4028.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डॉयरेक्टर ऑफ पोस्टल सर्विसेज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रान न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 34/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/157/2004-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th September, 2006

S.O. 4028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Director of Postal Services and their workman, which was received by the Central Government on 18-9-2006.

[No. L-40012/157/2004-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 21st June, 2006

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 34/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of SPO, Karaikudi Division and their workmen]

BETWEEN:

Smt. M. Sengamalam : I Party/Petitioner

AND

1. The Superintendent : II Party/Management
of Post Offices,
Karnikudi Division,
Karaikudi
2. The Director of Postal
Services, Southern
Region (TN), Madurai

APPEARANCES

For the Petitioner : M/s S. Jothivani, Advocate

For the Management: Mr. M.T. Anuman, ACGC

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/157/2004-IR (DU) dated 22-3-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

“Whether the claim of Smt. M. Sengamalam for reinstatement with consequential monetary and service benefits against the Director of Postal Services, Southern Region (Tamil Nadu), Madurai is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 34/2005 and notices were issued to both the parties and both the parties entered appearance through their authorised representatives and file their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner is a SSLC qualified candidate. The post of GDS Branch Postmaster, Palavangudi BO A/W. O. Siruvayal SO became vacant due to the superannuation of the regular holder of the post Sri A.R. Muthukaruppan on 10-6-2003. The 1st Respondent called for names from the Employment Exchange and issued local notification. In response to the local notification, the Petitioner submitted her application for appointment to the post of GDS Branch Postmaster, Palavangudi BO. Further, on the date of submission of her application, the Petitioner acquired the property qualification since the property was registered in the name of the Petitioner on 19-5-2003. For this post, the District Employment Exchange sponsored three candidates and seven applications were received through local notification. Out of this, the 1st Respondent called for seven candidates for interview. Among the candidates appeared for selection, the Petitioner was the most qualified candidate appeared for selection and the Petitioner alone was the

candidate who had secured highest mark of 401 out of 500 in SSLC examination and as such the Petitioner was selected for appointment and she joined the post of GDS Branch Postmaster, Palavangudi BO on 20-6-2003. The 2nd Respondent namely the Director of Postal Services, Southern Region Madurai is the Appellate and Reviewing Authority. The Petitioner worked in the post from 20-6-2003 to 27-5-2004. While so, the 1st Respondent has terminated the services of the Petitioner by an order issued dated 24-5-2004 the income and property claim in the application is neither an absolute condition nor preferential condition required to be considered for the post of GDS, Branch Postmaster. Further, the Central Administrative Tribunal, High Courts and Supreme Court have held that selection in the case of Extra Departmental Agents has to be held strictly on the basis of marks obtained in the matriculation examination by the candidate and which is the condition precedent. While so, the Respondent herein namely the Director of Postal Services, Madurai issued a show cause notice dated 1-4-2004 on the ground that according to Director General, New Delhi circular dated 18-6-1995 if a candidate does not satisfy income/property condition at the time of submission of application by acquiring this qualification subsequently sent a written request along with documentary evidence in continuation of her application and the same is received within the stipulated date, it should be entertained. The Petitioner in this case had submitted her reply against the show cause notice on 7-4-2004. But by a memorandum dated 24-5-2004 the Respondent terminated the services of the Petitioner stating that the selection was not made in accordance with the rules and the grounds of not producing the income and property certificate before the last date fixed for receipt of application is in violation of DGS instruction. In this case, the Petitioner has acquired the property as early as on 19-5-2005 itself and the last date for submission of application was on 21-5-2005 and in her application also she had clearly mentioned that property registered in her name. Therefore, the Petitioner acquired the property qualification even prior to submission of her application and the fact has been intimated to the appointing authority. But, the Respondent has not accepted the explanation given by the Petitioner. The act of the Respondent is illegal, arbitrary and without application of mind and in violation of Industrial Disputes Act. Further, during her the Petitioner had discharged her duties to the entire satisfaction of her superiors without any blemish. The Petitioner had rendered a continuous service from 26-2-2003 to 27-5-2004 and has been prevented from service without application of mind in violation of principles of natural justice. Hence the petitioner prays that an award has to be passed holding that order of termination passed by the Respondent is illegal and consequently direct the Respondent to reinstate the Petitioner into service as GDS Branch Postmaster, Palavangudi BO A/W. O. Siruvayal S.O. with all concomitant services and monetary benefits.

4. As against this, the Respondent in its Counter Statement contended that selection and termination in this case have been done as per provisions of GDS (Conduct & Employment) Rules, 2001 and this Tribunal has no jurisdiction to hear the case and these matters are to be filed before Central Administrative Tribunal only. In this case, Sri A.R. Muthukaruppan GDS, BPM, Palavangudi a/w. O. Sriuvayal SO was due to be discharged from service on 10-6-2003 afternoon on attaining the age of 65 years. After that the Respondent addressed to District Employment Office to sponsor candidates for appointment of GDS BPM Palavangudi BO and also issued local notification and ten candidates were called for interview on 10-6-2003 at the Divisional Office for verification of documents. Six candidates from local notification and one from Employment Exchange attended the interview on 12-6-03. Among the seven candidates applied for, the Petitioner who has secured highest mark in SSLC and who is having 56 cents of wet lands in her own name was selected. But, she has not enclosed the copy of registered deed of the property and income certificate obtained from Tahsildar along with her application sent on 19-5-2003 and she has produced income certificate and the original deed for property in her name along with a copy only during the interview/verification of documents on 12-6-2003. On the basis of these documents, the Petitioner was provisionally selected for the post and the selection announced on the spot. But, the appointment was reviewed by DPS, Madurai and he has held that the Petitioner has not produced the income and property certificate within the last date prescribed for receipt of application i.e. 21-5-2003 and she has produced the income and property certificates only on the date of interview i.e. 12-6-2003 and according to Director General's letter dated 18-9-2005, if a candidate does not satisfy income/property condition at the time of submission of application, but acquires this qualification subsequently sends a written request along with documentary evidence in continuation of his application and the same is received within the stipulated date, it should be entertained. On the basis of the above said letter, the Director of Postal Services, Madurai proposed to set aside the selection of the Petitioner, since the selection was not made in accordance with Director General's instructions. Therefore, show cause notice was issued to the Petitioner. Even though the Petitioner submitted her representation, she has not mentioned anything about non-production of income certificate within the last date fixed for receipt of application. Hence, the 2nd Respondent held that selection is arbitrary and set aside the selection of the Petitioner as GDS BP, Palavangudi BO and she was discharged from service from 27-5-2004 afternoon. The 2nd Respondent namely the Director of Postal Services, O/o. Postmaster General, Southern Region, Tamil Nadu, Madurai is the reviewing authority to which the appointing authority namely the 1st Respondent is subordinate. The 2nd Respondent is empowered to review whether the appointment to the post

of GDS are made strictly in accordance with the rules. As the appointment of the Petitioner was not made in conformity with the standing instruction issued by Director General, Department of Posts, New Delhi, the 2nd Respondent exercised the powers vested with him and set aside the selection after serving the show cause notice. Therefore, there is no illegality in quashing the termination order. The provisional appointment does not confer any right nor any guarantee for regular appointment to the Petitioner. There is no violation of rules. The rules of department have been scrupulously followed in terminating the services of Ex GDS namely the Petitioner. Hence, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :

- (i) "Whether the claim of the Petitioner for reinstatement with consequential monetary and service benefits against the Respondent/Management is legal and justified ?"
- (ii) "To what relief the Petitioner is entitled ?"

Point No. 1 :

6. The admitted facts in this case are the post of GDS BPM, Palavangudi BO A/w. O. Siruvayal SO became vacant due to the superannuation of regular holder of the post Sri A.R. Muthukaruppan on 10-6-2003 and the 1st Respondent has called for application by publishing local notification and also called for sponsorship from the employment exchange and totally seven candidates were appeared for the interview and out of this, the Petitioner was selected for the post and joined the post as GDS Branch Postmaster, Palavangudi BO on 20-6-2003. Subsequently, the 2nd Respondent who is the reviewing authority has reviewed the selection and has come to the conclusion that the appointment of the petitioner as GDS, Branch Postmaster, Palavangudi BO is irregular and he has issued a show cause notice and after receiving a reply from the Petitioner, he has terminated the services of the Petitioner on the ground that the Petitioner had not enclosed the copy of property/income certificate obtained from Tahsildar along with her application sent by her on 19-5-2003 and within the stipulated time she has not submitted these documents and therefore, the Respondent has terminated the services of the Petitioner.

7. The Petitioner alleged that the order passed by the Respondent in terminating her service is illegal, arbitrary, without any application of mind and in violation of principles of natural justice and so on. The Petitioner examined herself as WW1 and produced 18 documents as Ex. W1 to W18. On behalf of the Respondent one Officer Mr. R. Ragupathy was examined as MW1 and on their side four documents were marked.

8. Learned counsel for the Petitioner contended that no doubt in the notification it is mentioned that the applicant

should have adequate means of livelihood and he/she should have income through landed property and the landed property should be registered in his/her own name. For this purpose, the income certificate duly issued in the name of candidate proving annual income should be produced and income certificate issued in the name of parent will not be taken into account. But the various benches of Central Administrative Tribunal, High Courts and Supreme Court have held in number of decisions that it is neither an absolute condition nor preferential condition required to be considered for the post of GDS Branch postmaster. Further, the Tribunal have held that selection in the case of Extra Department Agents has to be held strictly on the basis of marks obtained in the matriculation examination by the candidate and which is the condition precedent. In this case, the Petitioner who was holding highest marks in SSLC examination among the candidates applied for the post, she has fulfilled the requisite qualification of owning landed property in her name and deriving income from that and as such the Petitioner is fully qualified candidate who had appeared for selection. Since the High Court and Supreme Court and also Tribunal have held that conditions imposed with regard to adequate means of livelihood is neither an absolute condition nor preferential conditions required to be considered for the post of GDS, the order impugned passed by the Respondent is not valid in law and therefore, the Petitioner is not entitled to any relief.

9. But, as against this, learned counsel for the Respondent contended that even the Director General, New Delhi has clarified this position on 18-9-1995 that if a candidate does not satisfy income/property condition at the time of submission of application but acquires this qualification subsequently send a written request along with documentary evidence in continuation of his application and the same is received with the stipulated date, it should be entertained and if such an intimation is received after the last date prescribed, it should not be entertained. Therefore, in this case, on the basis of the clarification issued by Director General of Post Offices, the Director of Postal Services, Madurai, namely the 2nd Respondent after giving an opportunity to the Petitioner has set aside the selection, since the Petitioner has not submitted her property/income statement/certificate within the stipulated time namely 21-5-2003 and she has produced all the documents only on 12-6-2003 i.e. on the date of interview and therefore, provisional selection made by the 1st Respondent has been set aside. Therefore, the order passed by the Respondent is not illegal and he has passed this order within his power and therefore, the Petitioner is not entitled to any relief.

10. Therefore, the questions to be decided in this case are :

“Whether the application made by the Petitioner without the property statement and also without

income certificate from Tahsildar with regard to her means within the stipulated date i.e. 21-5-2003 is valid and whether the production of above documents on 12-6-2003 will absolve the Petitioner from irregularities? Thirdly, whether the order impugned passed by the Respondent/Management is justified?

11. Learned counsel for the Petitioner has relied on two judgements of Central Administrative Tribunal Full Bench reported in 2002-03 at full bench Judgement 87, wherein the Central Administrative Tribunal in a similar case with regard to appointment of E.D. Agent has considered the wordings “possessing of adequate means of livelihood in the circular dated 6-12-93 of the department” and held that “it is neither an absolute condition nor a preferential condition requiring to be considered for the aforesaid post.” In the second case, the Central Administrative Tribunal Full Bench Jodhpur in O.A. No. 297/2000 while considering three questions namely :

“Whether it is necessary for the candidate applying for the post of EDBPM to submit proof of income/property along with their application”;

“Whether the proof of income/property qualification may be supplied by candidates upto the date of interview?” and

“Whether selections are to be made on the basis of marks obtained in the matriculation examination and thereafter the person selected should be given time to submit proof of income/property and in case he/she fails to submit the same within stipulated date, whether the procedure should be repeated for the next best candidate and so on?”

In that case, the Full Bench of that Administrative Tribunal has held with regard to questions 1 and 2 the answer already given in the earlier decision of Full Bench of Central Administrative Tribunal at Bangalore in the case of H. Lakshmana and Others Vs. Superintendent of Post Offices, Bellary and Ors. in O.A. No. 1792/2000, 813/2001 and 963/2001, 2003 (1) ATJ 277 will hold good. With regard to the third question, the Full bench of Jodhpur Administrative Tribunal has held that “the selections have to be made on the basis of other qualifications minus the qualification pertaining to immovable property. Thereafter the person selected can be given reasonable time to submit proof of income/property as per rules/instructions on the subject and in case, he fails to submit the same within a reasonable time, offer can be given to the next eligible/selected candidate.” Relying on these judgements, learned counsel for the Petitioner argued that in this case, no doubt, the Petitioner has not filed the proof of property statement and income certificate issued by Tahsildar along with her application on 19-5-2003. But, in this case, the Petitioner has produced documents to show that even prior to her application, property was transferred in the name of

the Petitioner and she has produced these documents/certificates given by Tahsildar at the time of interview i.e. on 12-6-2003. Further, among the candidates appeared for interview, the Petitioner along has obtained highest marks in the matriculation or equivalent examination and it is admitted by the Respondent also that she has obtained higher marks in the SSLC examination. Under such circumstances, on merit, the Petitioner was selected and she was appointed as GDS branch Postmaster, Palavangudi B.O. Even according to the Full Bench judgement of Central Administrative Tribunal, Jodhpur Bench, in such cases, selection has to be made on the basis of other qualification minus the qualification pertaining to immovable property, thereafter the person selected can be given reasonable time to submit proof of income/property as per rules/instructions on the subject and in case, he fails to submit the same within a reasonable time, the offer can be given to next eligible candidate. In this case, even before giving an opportunity, even at the time of interview itself, the Petitioner has produced the property statement and income certificate before the Respondent authorities. In such circumstances, the impugned order passed by the Respondent/Management is not valid.

12. But, the learned counsel for the Respondent contended that as per the Director General of Postal Services, New Delhi instruction dated 18-9-95, since the Petitioner does not satisfy the income/property conditions at the time of submission of her application and she has not produced the said income certificate & property statement along with her application, but only at the time interview, i.e. after the crucial last date prescribed, her application should not be entertained. Since the appointment of the Petitioner was not made in conformity with the instructions contained in Director General of Post Offices, New Delhi dated 18-9-95, the 2nd Respondent who is the reviewing authority had exercised powers vested with him and set aside the selection of the Petitioner after issuing show cause notice. Therefore, there is no illegality in passing the termination order. Further, it is argued on behalf of the Respondent that provisional appointment given to the Petitioner does not confer any right nor any guarantee for regular appointment. The order passed by the 2nd Respondent is not in violation of any rule. In this case, rules and instructions have been scrupulously followed in terminating the services of the Petitioner. Under such circumstances, the Petitioner is not entitled to any relief and there is no procedure irregularity nor violation of principles of natural justice.

13. But, I find there is no point in the contention of the learned counsel for the Respondent because as argued by the learned counsel for the Petitioner, The Full Bench of the Central Administrative Tribunal at Bangalore and Jodhpur have clearly held that possession of adequate means of livelihood in the notification of the department is neither an absolute condition nor a preferential condition

required to be considered for the post of GDS Branch Postmaster. Therefore, I find the order of termination passed by the Respondent is not valid in law. Further, in this case, even according to the Full Bench judgement of Central Administrative Tribunal at Jodhpur, the Petitioner has produced the documents namely property statement and income certificate given by Tahsildar at the time of interview. Under such circumstances, it should be considered as valid and at no stretch of imagination, it can be said that she has not fulfilled the conditions mentioned in the notification. As such, I find the order of termination passed by the Respondent authorities is not valid in law and the Petitioner's claim for reinstatement is legal and justified.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

14. In view of my foregoing findings that the order of termination passed by the Respondent Authorities is not legal and justified, I find the Petitioner is entitled to the relief claimed by her. Therefore, I direct the II Party/Management to reinstate the Petitioner as GDS Branch Postmaster, Palavangudi B.O. A/w.o. Siruvayal SO with all concomitant services and monetary benefits. No Costs.

15. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him. corrected and pronounced by me in the open court on this day the 21st June, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner : WW1 Smt. M. Sengamalam
For the Respondent : MW1 Sri R. Ragupathy

Documents Marked :

For the I Party/Claimant :

Ex. No.	Date	Description
W1	29-5-03	Xerox copy of the letter from 1st Respondent to Petitioner
W2	Nil	Xerox copy of the letter from 1st Respondent to Petitioner calling for interview.
W3	12-6-03	Xerox copy of the letter from 1st Respondent to Petitioner regarding her selection for the post of GDS BPM.
W4	19-4-04	Xerox copy of the show cause notice.
W5	1-5-04	Xerox copy of the requisition letter given by Petitioner seeking time for submission of representation.
W6	5-4-04	Xerox copy of the representation given by Petitioner to 2nd Respondent.

W7	21-5-04	Xerox copy of the office order passed by 2nd Respondent.
W8	15-6-04	Xerox copy of the 2A petitioner filed by Petitioner.
W9	29-7-04	Xerox copy of the reply statement filed by Respondent.
W10	9-8-04	Xerox copy of the rejoinder filed by Petitioner.
W11	7-6-95	Xerox copy of the employment card of the Petitioner.
W12	Nil	Xerox copy of the charge report.
W13	9-6-03	Xerox copy of the income certificate of the Petitioner.
W14	April, 1992	Xerox copy of the SSLC mark sheet of the Petitioner.
W15	1-6-94	Xerox copy of the Transfer certificate of the Petitioner.
W16	13-5-03	Xerox copy of the community certificate of the Petitioner.
W17	19-5-03	Xerox copy of the settlement deed.
W18	9-6-03	Xerox of the order for change of patta.

For the II Party/Management ;

Ex. No.	Date	Description
M1	Nil	Letter of authorisation filed by MW1.
M2	30-4-03	Xerox copy of the notification issued by Respondent calling for applications for GDS BPM.
M3	19-5-03	Xerox copy of the application & its enclosures for the post of GDS BPM by the Petitioner.
M4	12-6-03	Xerox copy of the nativity, income and property certificate produced at the time of interview by the Petitioner.

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4029.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट ऑफ पोस्ट आफिसिस के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 20/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/135/2004-आई आर (डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th September, 2006

S.O. 4029.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Senior Superintendent of Post Offices and their workman, which was received by the Central Government on 18-9-2006.

[No. L-40012/135/2004-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 26th June, 2006

Present :

K. Jayaraman, Presiding Officer

Industrial Dispute No. 20/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of O/o Postmaster Generator and their workmen)

BETWEEN

Sri A. Philip Amalraj : I Party/Petitioner

AND

1. The Director of Postal : II Party/Management Services, O/o. Postmaster General, Trichy.
2. The Post Master General, Central Region, Tamil Nadu.
3. The Senior Superintendent of Post Offices, Thanjavur Division, Thanjavur.

APPEARANCES :

For the Workman : M/s. S. Jothivani, Advocate

For the Management : Mr. S. Dhanasekaran, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-40012/135/2004-IR(DU) dated 12-01-2005 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the claim of Shri A. Philip Amalraj for reinstatement into service against the Senior Superintendent of Post Offices, Thanjavur is legal and justified? If not, to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 20/2005 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was appointed as Extra Departmental Branch Postmaster at Manakundu BO on 14-11-80 by the 3rd Respondent. The Assistant Superintendent of Post Offices, Papanasam Sub Division is the inspecting authority for the Petitioner and he placed the Petitioner under put off duty on 14-8-2001 and the same was ratified by an order dated 17-8-2001 by the 3rd Respondent herein. Rule 9(2) of P & T Agents (Conduct & Service) Rules, 1964 has been scrapped and the Department of Posts promulgated the Department of Posts Gramin Dak Sevak (Conduct & Employment) Rules, 2001 on 24-4-2001 in the Director General of Posts letter dated 24-4-2001. Therefore, the order passed by the Assistant Superintendant of Postal Offices placing the Petitioner under put off duty by invoking the provision of non-existing rules is not valid in law. As per Director General's letter dated 28-7-90. Extra Departmental Agent should not remain on put off duty for a period exceeding 45 days. But in this case, the Petitioner was issued with charge sheet under Rule 8 of P & T Extra Departmental Agents (Conduct & Service) Rules, 1964 only on 14-12-2001 after a lapse of four months from the date of put off duty. Two charges were framed against the Petitioner on the allegation that the Petitioner as BPM has accepted R.D. deposits on one day and credited the same on different days thereby violated the Rule 17 of P & T ED Agents (Conduct & Service) Rules, 1964. Even though the 3rd Respondent has shown 11 documents in annexure III of chargesheet they have not been served on the Petitioner along with the chargesheet. This caused a great prejudice to the Petitioner in submission of his reply. When he approached the officers concerned, they advised the Petitioner that if he accepts the charges, he would be let off with the warning and would be reinstated in service. Only induced by the officers' advise the Petitioner accepted the charges praying leniency. But, contrary to this promise, the 3rd Respondent imposed the punishment of removal from service by its order dated 4-6-2002. Against that order, the Petitioner preferred an appeal to the 1st Respondent on 29-8-2002. But the 1st Respondent has rejected the same on 5-2-2003. Aggrieved by this order passed by the Respondent, the Petitioner has filed revision petition before the 2nd Respondent on 31-3-2003 and the 2nd Respondent also rejected the same without considering the points raised by the Petitioner. At the first instance, the Petitioner has accepted the charges in view of the undue influence made by the Assistant Superintendent of Post Offices, and also the 3rd Respondent. The so called depositors mentioned in the memo of charges are none else but the cousin of the

Petitioner and later on enquiry the Petitioner found that even the Inspecting Officer had obtained signature in papers without showing him contents of the letter and therefore, the enquiry conducted by the Respondent/Management is not valid in law. The Petitioner has not committed any such offence as alleged in the memo of charges. The Inspecting Officer acted with an intention to keep away the Petitioner from the post and appoint his choice of person in the place and this influenced the Petitioner to accept the charges by giving false promises. Therefore, it clearly proves the unfair labour attitude and practice adopted by the officers of Respondent/Management. Further, the allegation against the Petitioner is only belated deposits and therefore, imposition of removal from service is a major punishment imposed on the Petitioner placing him under economic civil death and considering the gravity of charges, the imposition of punishment of removal from service is a major one which shows the non-application of mind on the part of the Respondent/Management. Therefore, the Petitioner wants only lesser punishment than the punishment of removal from service. Further, under section 11A of the I.D. Act, this Tribunal has got ample power to impose lesser punishment. Hence, for all these reasons, the Petitioner prays to pass an award directing the Respondent/Management to reinstate him into service as EDBPM, Manakundu BO with all monetary benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner was appointed as BPM Manakundu on 21-3-80 by the 3rd Respondent. During his inspection of branch post office on 10-8-2001, he found some irregularities. On 13-8-2001 the Petitioner has admitted about the belated credits and therefore, he was placed under put off duty on 14-8-2001 afternoon by the Assistant Superintendent of Post Offices and it was ratified by the 3rd Respondent by his order. After completion of 100% verification, the official was proceeded under Rule 8 of E.D. Agents (Conduct & Service) Rules, 1964 and chargesheet was issued on 14-12-2001. In his written statement of defence also, the Petitioner has admitted the charges on 19-12-2001. In the oral enquiry also, the Petitioner admitted the charges before the Enquiry Officer. In his representation dated 4-4-2002 against the Enquiry Officer's report also the Petitioner admitted the charges. After consideration of the enquiry Officer's report, the Senior Superintendent of Post Offices awarded the impugned penalty of removal from service by his order dated 4-6-2002. His appeal and revision were also rejected by the appropriate authorities. Now he has raised this industrial dispute. The E.D. officials now GDS are governed by the codified set of rules and regulations. They also come under the Central Administrative Tribunal jurisdiction and hence the proper forum for representation after completing departmental remedies may not be Industrial Tribunal. Even during the year 1993 the Petitioner was

dismissed from service for non-credit of SB/RD deposits by the Senior Superintendent of Post Offices order dated 30-4-93. Subsequently, the penalty was modified by the Appellate Authority in his order dated 8-11-93 and thereafter, he was reinstated in service on 1-12-93. But, again he committed the same fraud and therefore, he was removed from service w.e.f. 4-6-2002. Thus, he is a habitual offender. Change in nomenclature will not in any manner alter the existing terms and conditions of employment of ED Agents in terms of non-statutory P & T ED Agents (Conduct & Service) Rules, 1964. The newly incorporated nomenclature of E.D. agents necessitated the renumbering of existing rules in revised GDS (C&E) Rules, 2001. Renumbering of rules has neither changed the procedure envisaged in rules nor the nature and velocity of the imputation of charge levelled against the Petitioner. Further, instructions for finalisation of procedure within 45 days is only a guideline and is subject to administrative contingencies. Since the Petitioner admitted all the charges in defence statement dated 18-12-2001 and further requested not to conduct any enquiry for the charges framed against him and further admitted the charge unequivocally before the Enquiry Officer, now he cannot contend that the enquiry was not conducted in a fair and proper manner, it is only an afterthought. It is false to allege that he was persuaded to admit the charges. The 1st and second Respondents disposed of the appeal/revision petition in accordance with the rules. The charges were proved not only by the statement of depositors but also by documents evidences. Therefore, the so called inducement assumes purported to have been given with false and afterthought. The Petitioner collected cash from public for deposit into their RD accounts but temporarily misappropriated for his personal expenses. Thus, belatedly crediting the amount into Govt. account by deviation of rules. He did not maintain absolute integrity and devotion to duty as required by him and specified in rules. The charge framed against the Petitioner is grave in nature involving integrity and the 1st Respondent awarded appropriate punishment after considering all the reasons. Therefore, the penalty imposed is not disproportionate to the gravity of the charges levelled against him. Hence, for all these reasons, the Respondent prays to dismiss the claim with costs.

5. In these circumstances, the points for my determination is :

- (i) "Whether the claim of the Petitioner for reinstatement into service against the order of Respondent/Management is legal and justified ?
- (ii) "To what relief the Petitioner is entitled ?"

Point No. 1 :

6. This dispute was raised for reinstatement of the Petitioner into service with all consequential relief. The charges framed against the Petitioner in this case are that

while he was working as Branch Postmaster, Manakundu BO on 1-11-2000 the Petitioner accepted RD deposit of Rs. 250 plus DF Rs. 2.50 in respect of R.D. Account No. TKV 331646 from the depositor but credited the same only on 8-2-2001 with the deposit of Rs. 250 plus DF 7/50. Similarly, he collected deposits for May and June, 2001 on 3-7-2001 but credited only on 31-7-2001. The next charge is while working as BPM on 1-11-2000 he accepted R.D. deposit of Rs. 250 plus DF 2/50 in respect of R.D. account TKV 331647 from the depositor and credited on 8-2-2001 and similarly he collected deposits on 3-7-2001, but credited on 31-7-2001. On inspection, the inspecting authority has found this discrepancy and placed him under put off duty. Subsequently, he was chargesheeted. In this dispute, the Petitioner alleged that the officers of the Respondent/Management has advised him that if he accepts the charges, he will be let off with warning and would be reinstated in service. But on the contrary, the Respondent/Management has imposed the punishment of removal from service by its order dated 4-6-2002 and even his appeal and revision were rejected by the competent authority.

7. But, as against this, the Respondent contended that the allegation of inducement is made only as an afterthought. The Petitioner has admitted his misdeeds in the written statement even before the Enquiry Officer and also in his representation against the enquiry report. But even in the appeal, he has not made that he has admitted the guilt only on the undue influence of the senior officers of the Respondent/Management. Therefore, it is only an afterthought made for the purpose of this case.

8. The Petitioner examined himself as WW1 and produced 8 documents which are marked as Ex. W1 to W8. Ex. W1 is the copy of memo of charge dated 14-12-01 Ex. W2 is the copy of representation submitted by Petitioner. Ex. W3 is the copy of order dated 4-6-2002 removing the Petitioner from service. Ex. W4 is the copy of appeal preferred by the Petitioner dated 29-8-02. Ex. W5 is the copy of order of Appellate Authority. Ex. W6 is the copy of review petition submitted by Petitioner. Ex. W7 is the copy of order dated 23-8-2003 on review petition. Ex. W8 is the copy of failure of conciliation report dated 30-7-04. The Petitioner has examined one of the R.D. holders while he was working as BPM as WW2. But by producing these documents or examined himself as a witness, he has not established before this Tribunal that the order passed by the Respondent authorities in domestic enquiry is without any substance.

9. Learned counsel for the Petitioner argued that the order passed by the Assistant Superintendent of Post Offices put him under put off duty based on the old rule is not valid and also the charges framed against the Petitioner under old rule is not valid. But, as against this, he has not raised any objection at the time of domestic enquiry. Further relevant provisions of old rule are found place in new rule and only nomenclature has been charged. Therefore, I find

there is no point in the contention of the learned counsel for the Petitioner with regard to this. No doubt, the Petitioner has raised a plea that only due to undue influence made by officials of the Respondent/management, he has accepted the charges framed against him, therefore, no reliance can be placed on the admission made by the Petitioner in this case. But, here again, I find there is no substance in the contention of the petitioner because even assuming for argument sake that at the first instance, he has made admission on the inspection of officials, he has admitted before Enquiry Officer and he has also admitted the charges even at the time of 2nd show cause notice. But he has not raised any murmur with regard to the inducement or undue influence exercised by the alleged Respondent authorities. Under such circumstances, I find the alleged inducement made by the Respondent authorities and the alleged undue influence made by the Respondent authorities is only an afterthought. Further, the Petitioner has not proved before this Tribunal that he has not made any mistake and deposits were made as and when it was received, under such circumstances, I am not in a position to accept the contention of the learned counsel for the Petitioner that the Petitioner has accepted the charges framed against him only on the inducement of the Respondent officers. No doubt, the Petitioner has examined one of the depositors as WW2. But, his evidence will no way prove the innocence of the Petitioner and he has not produced any document to show the Petitioner's innocence. Under such circumstances, I am inclined to accept the Petitioner's contention that he has not made any mistake in depositing the amount in R.D. accounts.

10. Learned counsel for the Respondent contended that since serious financial irregularities were detected on inspection conducted by the officials, chargesheet was issued under Rule 8 of EDA (Conduct & Service) Rules, 1964 the Petitioner and the Petitioner categorically admitted the guilt in his defence submitted for the charges dated 19-12-2001. He has also accepted the guilt at the time of oral enquiry and also in his representation dated 4-4-2002 submitted against the Enquiry Officer's report and the Petitioner has at no point of time raised the plea that he accepted the guilt in false promises or under coercion or undue influence and even after that no complaint has been given to any higher officials in this regard. It is further contended on behalf of the Respondent that past record of the Petitioner was also no satisfactory since during 1993 he was dismissed from service for non-credit of SB/RD deposits and the penalty of dismissal was imposed on him and subsequently, in appeal it was modified and he was reinstated in service. Since the Petitioner admitted his mistake, then the question of proving the charges will not arise. However, in the present case, apart from charges being admitted, the department has also proved the charges by following the procedure and established the same before the Enquiry Officer. Learned counsel for the Respondent further contended that the Supreme Court and High Courts

in several decisions have held that dismissal or removal from service is an appropriate punishment in the case of misappropriation. Therefore, taking into consideration, the past conduct of the Petitioner and his present charges which are very serious in nature namely temporary misappropriation of amount deposited in R.D. accounts, the Petitioner was imposed with the punishment of removal from service. Therefore, at no stretch of imagination, it can be said that the punishment imposed on the Petitioner is excessive. Under such circumstances, learned counsel for the Respondent prays that the claim has to be dismissed.

11. I find much force in the contention of the learned counsel for the Respondent. In this case, the Petitioner requests this Tribunal only to exercise discretion under Section 11A of the I.D. Act. But, I find since the charge of temporary misappropriation has been proved beyond any doubt, and since the mistake has been admitted by the Petitioner, I find the punishment imposed on the Petitioner cannot be said as excessive and as such, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

12. In view of my foregoing findings, I find the petitioner is not entitled to any relief. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th June, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/ Petitioner	: WW1 Sri A. Philip Amalraj WW2 Sri G. Agnerleogeeyeseeli
For the II Party/ Management	: None

Documents Marked :

For the I Party/Petitioner :

Ex. No.	Date	Description
W1	14-12-01	Xerox copy of the memo of charges.
W2	4-4-02	Xerox copy of the representation given by Petitioner.
W3	4-6-02	Xerox copy of the order of removal from service of Petitioner.
W4	29-8-02	Xerox copy of the appeal submitted by Petitioner.
W5	5-2-02	Xerox copy of the order of Appellate Authority.
W6	31-3-03	Xerox copy of the review petition submitted by Petitioner.
W7	23-8-03	Xerox copy of the order in review.
W8	30-7-04	Xerox copy of the failure of conciliation report.

For the Respondent/management : NIL.

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4030.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रसार भारती के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 400/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-09-2006 को प्राप्त हुआ था।

[सं. एल-42012/125/2003-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 18th September, 2006

S.O. 4030.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 400/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Prasar Bharati, and their workmen, which was received by the Central Government on 18-09-2006.

[No. L-42012/125/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Wednesday, the 19th July, 2006

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 400/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Prasar Bharati and their workmen).

BETWEEN

The General Secretary : I Party/Claimant
Broadcasting Engineering
Employee's Union.
Chennai

And

The Administrative Officer, : II Party/Management
Prasar Bharati,
Broadcasting Corporation
of India.
Doordarshan Kendra,
Chennai

APPEARANCES:

For the Claimant : Mr. P. Chandrasekaran,
Advocate

For the Management : Mr. M. Venkateswaran,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-42012/125/2003-IR (CM-II) dated 29-07-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned order is as follows :—

“Whether the reduction of staff against the norms as alleged by the Broadcasting Engineering Employees Union against the management of Broadcasting Corporation of India, Doordarshan Kendra, Chennai is legal and justified? If not, to what relief the workmen are entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 400/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows :—

The Petitioner is a registered union under Trade Union Act bearing Registration No. 2670/CN1 and is functioning for the welfare and general upliftment of the conditions of service of employees employed under Respondent/Management. The Respondent/Management is an industry within the meaning of Section 2(j) of I.D. Act. The workmen are involved in transmission activities round the clock including recording and news coverage and the staff normally work in four shifts pattern namely 4.30 hrs to 11.50 hrs., 10.00 hrs to 17.20 hrs; 16.00 hrs to 23.20 hrs and 22.00 hrs to 5.20 hrs and very often recording and editing shifts are extended from 17.20 hrs to 21.20 hrs. The available staff for DDK as per ad-hoc norms staff strength maintained by the Respondent in February, 1994 is 208 which consists of Senior Engineering Assistants, Engineering Assistants, Senior technician, Technician, helper and khalasi and it was 183 in March, 2000, and in September, 2000 it was 162 and now as per ad-hoc norms it is 130. There are about 54 television relay centres, whereas the sanctioned staff per TVRC is 11 which was recommended by Staff Inspection Union, but the present strength maintained as per ad-hoc norms is 8 after redeployment. Due to sudden introduction of ad-hoc norms as per Ministry of Information & Broadcasting order dated 25-2-2000, in most areas, the workmen are taking shifts against staff inspection unit norms. Regarding reduction and redeployment of employees of Doordarshan Kendra, the matter is pending before this Tribunal in I.D. No. 108/2003. After these posts have been reduced, the additional working area like 24 hours transmission (round the clock transmission) earth station and post production facilities are not sanctioned with additional staff. Even though there has been tremendous increase in work load, the Respondent/Management showing reasons like modern concept of technology and has reduced the staff strength

to 130 as per ad hoc norms. The management neither sanctioned the additional staff nor has given overtime to its employees and they are struggling with additional workload in earth station/DD3 terrestrial transmission etc. Further, the Respondent/Management deployed single workmen in operation of lighting/camera control unit where three camera operations are involved in studio transmitter recording. Thus they have provided insufficient workmen for operation and maintenance. The management also failed to sanction adequate staff strength to earth station which is located in a place isolated from main building. Further, the Respondent/Management engaged stringers (private camera unit) for news coverage which is violative of labour laws and the Respondent/Management even permitted to engage casuals for 2nd channel DD news. Though the Staff Inspection Unit has sanctioned 11 members for T.V. relay centre, they are engaged only 8 members. In the absence of full staff strength as per Staff Inspection Unit norms shift are maintained with single man in technical operations which is violative of Electricity Safety Manual. After 2000 the post sanctioned for new installations are totally stopped by the Respondent/Management, till date no initiative is taken to fill up the vacancies due to different designations etc. and even the security guards are not posted in many TV relay centres. Therefore, the Petitioner union prays to pass an award directing the Respondent/Management to restore/sanction the strength of various cadres in DDK Chennai and TV relay centres with effect from the date of such illegal reduction with all consequential relief.

4. As against this, the respondent in its Counter Statement alleged that the Respondent/Management has no knowledge about the registration of Petitioner union. The details/particulars regarding No. names of members, office bearers by-law and area of operation have not been communicated to the Respondent till date. Though the Prasar Bharati came into existence in the year 1997, service conditions, rules etc. are yet to be framed. As such, all the employees are still Govt. servants working for Prasar Bharati on deemed deputation and governed by CCS rules. The dispute between the employees and management till date are being decided by CAT & High Court only, as such, the term workmen, industrial dispute are not applicable to the employees of AIR & Doordarshan as on date. The recording shifts are time bound and are not extended often. The Staff Inspection Unit of Ministry of Finance has undertaken the study of staffing norms for review of staff strength in Doordarshan installations and has since submitted its report in 2002 in respect of HPT/LPTs/DMCs and in respect of DDKs in 2003. On the basis of SIU recommendations, the staff strength has been worked out and proposal sent to Ministry of Information and Broadcasting for implementation of SIU recommendation and the proposal for creation/abolition as per SIU norms are pending for Govt. approval. The official Respondent in

the present dispute is not the competent authority for deciding the staff strength. Only the Directorate General, Doordarshan, New Delhi and Ministry of Information and Broadcasting are the competent authority and the Petitioner union has not impleaded them as a party to this dispute. In pursuance of the policy decision of the Ministry of Finance, creation of posts to the newly created station has been completely restricted. With the advent of modern technology and development in the electronic media, the requirement of manpower is to be rationalized and utilised in places as per exigencies. Accordingly, the available manpower from major Kendra Stations has been evenly distributed without affecting the transmission in both the places as per ad hoc norms. These ad hoc norms were to be in operation till such time they are revised after systematic study by some outside agency/consultant to determine the optimum staffing norms. On the basis of SIU recommendation, the staff strength has been worked out and proposal sent to Ministry of Information & Broadcasting. Further in respect of I.D. No. 108/2003 the Tribunal has passed an award dismissing the claim of the Petitioner. None of the staff member is rendered surplus nor sent out of employment. With regard to Over time, if a staff is detained for over time duty in exigency of service, over time allowance is paid to such eligible staff and others are being given compensatory off as per rules and entitlements. Stringers are engaged in districts as per directorate's guidelines in public interest and stringers are by and large used where DDK's regular camera units cannot reach the place of coverage keeping in view both the time factor and economy of expenditure. It is not correct to say that shifts are being maintained with the single man in technical operation. The shift operations are adequately manned as per the Electricity Safety Manual. The number of posts were abolished in pursuance of Govt. policy communicated vide Ministry of Finance order No. 7 dated 3-5-93 to effect economy of Govt. expenditure on the establishment. Further the ban imposed by Government of India on filling up of vacant posts is still in force. Hence, the Respondent prays to dismiss the above dispute as devoid of merits.

5. In these circumstances, the points for my consideration are—

- (i) "Whether the alleged reduction of staff against the norms as alleged by the Petitioner union against the Respondent/Management is legal and justified?"
- (ii) "To what relief the concerned workmen are entitled?"

Point No. 1 :—

6. The case of the Petitioner in this dispute is that the Petitioner union workmen are involved in transmission activities round the clock including recording and news coverage in the Respondent/Management. While so, by a

sudden introduction of ad hoc norms as per Ministry of Information and Broadcasting, the workmen are taking shifts against the Staff Inspection Unit norms and they have reduced the posts. But, on the other hand, the Respondent/Management have installed 54 T.V. relay centres and additional working areas like 24 hours transmission, earth station and post production facilities are not sanctioned with additional staff and even though there has been tremendous work load, the Respondent/Management has not sanctioned any additional staff and they alleged that modern concept of technology etc. has reduced the staff strength. Likewise, the Respondent/Management neither sanctioned additional posts nor has given over time allowance to its employees and the workers are struggling with additional workload in earth station/DD3, terrestrial transmission etc. and the management deployed single workmen in operation of lighting camera control unit where three camera operations are involved in studio transmitter recording which is totally against the norms and they have totally withdrawn the Assistant Engineer from Video tape recorder operation and they have provided insufficient workmen for operation and maintenance in A/c plant, power supply and generator. Thus, the Respondent/Management failed to sanction adequate staff strength which is located in isolated place from the main building. In most of the T.V. relay centres, the posts were not sanctioned as per Staff Inspection Unit norms, instead, the Respondent/Management deployed existing employees from one T.V. relay centre to the newly commissioned T.V. relay centres on the basis of ad hoc norms by shifting of headquarters. In the absence of full staff strength as per Staff Inspection Union norms shifts are maintained with single man in technical operations, which is violative of Electricity Safety Manual. It is the further contention of the Petitioner union that after the year 2000, post sanctioned for new installations are totally stopped by the Respondent/Management and till date, no initiative is taken to fill up the vacancies wherever arises due to different designations. Therefore, the Petitioner union prays to restore the strength of various cadre in the Respondent/Management namely posts of Senior Engineering Assistant, Engineering Assistant, Senior Technician, Technician, Helper and Khalasi. It is further contended on behalf of the Petitioner that due to tremendous expansion in the transmission, the staff strength is not sufficient to handle the programme, production, transmission, OB coverage etc.

7. As against this, the Respondent contended that there is no reduction in staff strength of DDK, Chennai. With the advent of modern technology and development in electronic media, the requirement of manpower is to be rationalized and utilised in places as per exigencies and it cannot be said that the work load for the members of the Petitioner union has been increased manifold by introducing various transmissions in DDK. It is further contended that

Government of India issued instructions vide order dated 3-5-93 to all Ministries/Departments not only to DDK for abolition of posts which have been lying vacant for over a period of one year and since the orders are meant for all Ministries of Government of India and were issued in pursuance of Govt. policy, the members of the Petitioner union have not been singled out for any discrimination in any way. Since the decision of the Govt. was issued in the year 1993 and the members of the Petitioner union have not raised any objections at that time, and after a long lapse of time, the policy decision cannot be questioned before any forum. Subsequent to the issue of Office Memorandum dated 3-5-93 by the Ministry of Finance, the Respondent/Management has not reduced the staff strength nor surrendered any post, but the Respondent has re-arranged the staff strength according to the exigency in place of need due to development in technology. Therefore, they are only readjusted in place of need as per exigencies and therefore, it is futile to contend that staff of Doordarshan Kendra has been reduced by the Respondent/Management and at no stretch of imagination, it can be said that the staff strength of Prasar Bharati Corporation has been reduced by the order of Respondent/Management, but they have only re-deployed or readjusted as per exigencies that had arisen due to circumstances. The Petitioner union had also questioned the re-deployment of the Respondent Corporation in W.P.Nos. 20051, 20068 to 20084 and 21210/2000, wherein the High Court has clearly stated that redeployment of staff working in the Corporation, all of whom are govt. servants and all of whom had worked in the posts prior to the formation of Corporation and who continue to work in the Corporation without demur receiving as they do, their salaries and wages from the Corporation. Therefore, such redeployment was the result of a study undertaken by a High Level Committee and was in the best interest of the organisation and hence, rejected their contention. No doubt, the Prasar Bharati has installed so many T.V. relay centres and on that ground, it cannot be inferred that the work load has been increased nor working staff strength has been reduced by the Corporation. As per the terms of appointment, the engineering staff are shift duty staff and the staff already sanctioned for tract operation was withdrawn and their services had been utilised for 24 hours O & M Satellite service. Thus, the Respondent/Management had ensured that subordinate engineering staff do not perform more than their expected normal duty hours and do assigned duties which are primarily theirs and further, if any staff is retained beyond his duty hours on rare occasions, he/she is compensated by over time allowance/compensatory off as per their entitlement fixed by the Govt. Therefore, it is futile to contend that the Respondent/Management has reduced the strength of norms fixed by Staff Inspection Unit. The staff Inspection Unit of Ministry of Finance has undertaken study of staffing norms for review of staff strength in Doordarshan installations and also submitted its report in 2002 in respect

of HPT/LPTs/DMCs and in respect of DDKs in 2003. On the basis of Staff Inspection Unit recommendations, the staff strength has been worked out and proposal was sent to Ministry of Information & Broadcasting for implementation of SIU recommendations and the proposal for creation/abolition as per Staff Inspection Unit norms are pending for Govt. approval. Under such circumstances, it is not a valid contention raised by the Petitioner. It is also contended on behalf of the Respondent that official Respondent in the present dispute is not competent authority for deciding the staff strength and only the Directorate General, Doordarshan, New Delhi and Ministry of Information and Broadcasting are the competent authority and the Petitioner union has not impleaded them as a party to the dispute and therefore, on that score also, this dispute is not maintainable. On behalf of the Respondent, it is further argued that in pursuance of the policy decision of Ministry of Finance, creation of posts to the newly created stations has been completely restricted and with the advent of modern technology and development in the electronic media, the requirement of manpower is to be rationalised and utilised in places as per exigencies. Accordingly, this Respondent has made available manpower from major Kendras has been evenly distributed without affecting the transmission in both the places as per ad hoc norms. These ad hoc norms were to be in operation till such time, they are revised after systematic study by some outside agency/consultant to determine the optimum staffing norms and at that time, the welfare of the staff have also been taken into account. Therefore, there is no valid ground for the Petitioner to raise this dispute on the allegation that the Respondent/Management has reduced the staff strength.

8. I find much force in the contention of the learned counsel for the Respondent because in this case, though the Petitioner union alleged that there is reduction in staff strength against the norms, they have not established this fact with any satisfactory evidence. No doubt, they have produced ad hoc norms given by the Govt., but merely because the Govt. has issued ad hoc norms to DDK, it cannot be said that the staff strength of Doordarshan Kendra has been reduced from the sanctioned posts. I find much force in the contention of the learned counsel for the Respondent that with the advent of modern technology and development in the electronic media, the requirement of manpower is to be rationalised and utilised in places as per exigencies and that is why the Doordarshan Kendra has made available manpower from major Kendras and has evenly distributed without affecting the transmission in both the places and only because to distribute the staff for needy places, the said ad hoc norms were introduced by the Govt. and it is admitted by the Respondent that ad hoc norms is not a permanent solution and it will be in force till such time they are revised after systematic study by some outside agency or consultant to determine the optimum staffing norms.

9. It is further argued by the learned counsel for the Respondent that Petitioner union has raised various disputes on the allegation namely surrender of posts by the Respondent/Management is illegal and that the members of the Union have not been paid over time allowance and so much so the staff strength of Respondent/Management has been reduced and therefore, the Petitioner union wants to coerce the Respondent by raising so many disputes on the ground that strength of DDK, Chennai has been reduced from the existing norms. He further argued and reiterated the point that there is no reduction in staff strength of DDK, Chennai. No doubt, they have been re-deployed to various places as per the requirement and on that ground, it cannot be said that the staff strength of DDK has been reduced.

10. I find much force in the contention of the learned counsel for the Respondent. The Petitioner union though raised the dispute with regard to the allegation that DDK, Chennai had surrendered the posts and re-deploying/relieving the employees to various places, subsequently they have raised another dispute alleging that DDK has not given over time allowance to the members of the union and similarly, in this dispute, they have raised a plea that DDK, Chennai has reduced the staff against the norms of Staff Inspection Unit. But, the Petitioner union has not established their contention with any satisfactory evidence. Under such circumstances, I find the allegation that reduction of staff against the norms fixed by Staff Inspection Unit by the Respondent/Management is not justified. As such, I find this point against the Petitioner union.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

11. In view of my foregoing findings that the allegation that there is a reduction of staff against the norms by the DDK, Chennai is not justified, I find the Petitioner Union is not entitled to any relief. No Costs.

12. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 19th July, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Claimant : WW1 Smt. Mymoona
For the Respondent : None

Documents Marked :—

For the I Party/Petitioner :—

Ex. No.	Date	Description
W1	01-03-01	Xerox copy of the sanctioned strength of staff in Respondent/Management LPC/TVRC as on 1-3-01

Ex. No.	Date	Description
W2	24-06-02	Xerox copy of the order of CE (SZ) for shifting of Headquarters for engineering employees.
W3	06-10-03	Xerox copy of the memo for outsourcing of engineering Manpower issued by D.G. Doordarshan.
W4	Jan. 2002	Xerox copy of the SIU report No. 0109.
W5	Feb. 2003	Xerox copy of the SIU report No. 0204.
For the II Party/Management		NIL

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4031.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. इण्डियन इंस्टिट्यूट ऑफ हॉर्टिकल्चरल रिसर्च के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम म्यायालय बेंगलूर के पंचाट (संदर्भ संख्या 28/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-09-2006 को प्राप्त हुआ था।

[सं. एल-42011/122/1999-आई. आर. (डी. यू.)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi. the 18th September, 2006

S.O. 4031.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Institute of Horticultural Research and their workman, which was received by the Central Government on 18-09-2006.

[No. L-42011/122/1999-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 12th September, 2006

PRESENT

Shri A. R. Siddiqui, Presiding Officer

C. R. No. 28/2000

I PARTY

The Secretary
Coorg District General
Workers Union.
Virajpet-571 218

II PARTY

The Director General,
M/s. Indian Institute of
Horticultural Research
(ICAR),
Hesaraghatta Lake P.O.,
BANGALORE-560 089

APPEARANCES

1st Party	: Shri M. C. Narasimhan, Advocate
2nd Party	: Shri S. V. Sastry, Advocate.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-42011/122/99/IR (DU) dated 13th March, 2000 for adjudication on the following schedule :

SCHEDULE

"Whether the Coorg District General workers Union is justified in demanding regularization of services of casual labourers engaged in CHES, Chettahalli on par with the malis ? If so, to what relief they are entitled ?

2. This is the dispute raised by the Secretary, Coorg District General Workers Union, Kodagu District on behalf of the casual workers working with the management (CHES) stating that the workers were being treated as casual workers though they are in the service since the beginning of the establishment and their services have not been regularized despite the award passed by this tribunal on 30-8-1989 where under the management was ordered to prepare a scheme to regularize the services of those casual workers who had completed 8 years of service by then; that the casual workers came to be categorized as Malis and temporary workers discharging similar duties and the malis have been granted pay scales and other benefits whereas, casual workers have been denied those benefits thereby making a discrimination between the Malis and the casual workers and the management is not justified to continue services of these so-called casual workers for such a length of period without regularizing their services and not granting them the service benefits which are applicable to the Malis therefore, the casual workers are entitled to be regularized on par with the Malis.

3. The management by its counter statement challenged the claim of the first party workman on the ground that the union representing them has no locus standi to espouse their cause; that the management is not an 'Industry' as defined under Section 2(j) of the ID Act and that the claim made on behalf of the casual workers is also hit by the principle of 'resjudicata' on merits and the management contended that there is no case made out by the first party workmen for regularization of their services and that regularization of services of casual labourers depends upon the number of vacancies available for recruitment and with requisite qualification and experience for the post. Therefore, simply because they have worked for some years, get no right in their favour seeking regularization of their services. Not disputing the fact that

earlier there was an award passed by this tribunal with a direction to the management to frame a scheme regularizing the services of the casual workers who had put in 8 years service or more with the management as on 30-8-1989 and that out of the 81 workers who were involved in the dispute, most of them have been regularized in service, the management further contended that in the light of the said award the Central Govt. by its order dated 1-9-1993 prescribed the necessary conditions for regularizing the casual workers and accordingly the management has given temporary status to the employees and the employees who have been given temporary status have been given regular employment based on seniority and as and when vacancies arise. The management has also been paying salary attached to the post of Group 'D' to the temporary status employees with increments and leave benefits as per the scheme. Therefore, the temporary status employees cannot claim the benefits on par with the regular employees and they cannot claim the benefits on par with the Malis as they discharge the work different from the work being discharged by the Malis.

4. During the course of trial, the first party union has let in evidence through WW1 and WW2 and got marked 8 documents at Exs. W1 to W8 in support of its claim.

5. The management on its part examined MW1 and got marked two documents at Ex. M1 & M2. Ex. W1 is the letter dated 28-3-1992 issued to WW1 asking him to undergo medical examination to ascertain his age. Ex. W2 is the office order dated 28-4-1992 showing his age as well as the age of other 72 employees including the other casual workers involved in this case. Ex. W3 series are eight office orders granting temporary status to the casual workers in respect of WW1 and seven other workers. Ex. W4 is the annual return submitted by the first party union to the Registrar, Trade Union. Ex. W5 is the copy of the representation made by the General Secretary of the union to the management. Ex. W6 is the copy of the strike notice given by the said General Secretary to the RLC. Ex. W7 is the copy of the failure report in respect of the dispute in question (award passed by this tribunal in CR No. 38.88 referred to supra marked again as Ex. W7 through oversight) and Ex. W8 is the Govt. of India Order dated 10-9-1993 under which the present casual workers have been granted temporary status w.e.f. 1-9-1993. Ex. M1 is the order dated 23-11-1994 issued in pursuance to the order at Ex. W8. Ex. M2 is the copy of the order in writ petition No. 24619/99 dated 5-7-2005 preferred by the workmen of the management seeking implementation of the aforesaid award at Ex. W7.

6. The oral testimony of WW1 is to the effect that he along with other 20 workers has been working for 25 to 30 years in the management, whose names are given in the affidavit. He stated that as per the award at Ex. W7, those who had completed 8 years of service or more as on

31-8-1989 were required to be regularized in service. He stated that he and others have been granted the status of temporary workers from 1-9-1993 vide Ex. W3 series though they are discharging the same duties as Malis. There is a discrimination in wages and service benefits being granted to the Malis and the casual workers conferred with temporary status. Therefore, he stated that services of himself and others are required to be regularized on par with those Malis.

7. The oral testimony of WW2 is confined about the question of union membership and the espousal of the dispute.

8. MW1 by filing his affidavit by way of examination chief reiterated the case of the management stating that under the Central Govt. Order dated 1-9-1993 temporary workers have been given temporary status and they are being paid salary attached to the post of Group D with increments and leave benefits and that they cannot be granted benefits on par with the regular employees (Malis). In his cross-examination MW1 in no uncertain terms admitted that the workmen whose names are mentioned in the affidavit of WW1 are entitled to be regularized in service as per the above said award dated 30-8-1989 on the basis of seniority and subject to vacancies. He further admitted that had these workmen been regularized prior to 1-4-2000 they would not have been deprived of the benefit of GPF, Gratuity, Pension etc under which they were covered earlier. There is no denial of the fact by MW1 in his deposition that these casual workers are in service of the management for the last 25 to 30 years, neither there was any suggestion made to WW1 denying the said fact on behalf of the management.

9. Learned counsel for the management vehemently argued that in the earlier dispute raised by the first party union in CR No. 28/88 involving about 81 employees, an award was passed asking the management to frame the scheme to regularize the services of the casual workers who have put in 8 years service or more as on 31-8-1989 and according to the said scheme most of the said workers have been regularized in service have fulfilled the said condition of 8 years service. He submitted that as per the above said Govt. of India order made in the year 1993, the casual workers have been conferred with temporary status and they are being regularized in service as and when vacancies arose fulfilling certain conditions laid down under the said scheme. He also contended that the present reference cannot be maintained in the light of the earlier award passed by this tribunal being hit by the principle of 'Res judicata' and cited a ruling reported in FLR 2000 SC in support of his said argument.

10. Whereas, learned counsel for the first party with equal vehemence argued that the award passed by this tribunal directing the management regularizing the services of the casual workers is not subject to the vacancy position

and therefore, in the light of the very admissions made by MW1 that all these workers are entitled to be regularized in service in the light of the aforesaid award are entitled to be regularized in service. He submitted that though these casual workers have been conferred with temporary status and they are being paid wages as applicable to the regular workers namely, the Malis but they are not given the service benefits such as GPF-cum-Gratuity Pension etc. though such benefits were given to them earlier but withdrawn thereafter on the ground that their services were not regularized prior to 1-4-2000 as admitted by MW1 himself in his cross examination. Therefore, learned counsel submitted that when the first party workmen are being paid wages on par with Malis and are discharging the duties similar to the one discharged by Malis and have fulfilled the condition of service of 8 years and more as per the aforesaid award passed by this tribunal, they ought to have been regularized in service w.e.f. 1-9-1993 itself instead of conferring temporary status on them so that they could have got other service benefits on par with the regular workers such as Malis. As far as legal contention that present dispute is hit by principle of *res judicata*, learned counsel submitted that the aforesaid award does not come in the way of first party workmen raising the dispute as they are asking for the relief independent of the above said award that too having fulfilled the condition of 8 years of service or more under the scheme ordered to be framed by the management under the said award itself.

11. After having gone through the records I find substance in the arguments advanced for the first party. First of all coming to the legal questions raised by the management that the first party union has no locus standi to raise the present dispute and that the management is not an 'Industry' as defined under Section 2(j) of the ID Act. The learned counsel for the management did not argue on the point that the first party has no locus standi to raise the present dispute or that management is not an Industry. Even otherwise the above said contentions raised by the management in the counter statement are not at all tenable in the light of the aforesaid award in CR No. 28/88 passed by this tribunal and in view of the fact that award has become final not being challenged by the management as on todate.

12. Now, coming to the question of '*res judicata*' raised by the management, it was well argued for the first party that the first party workmen though were the parties to the said award, they cannot be prevented to raise the present dispute for the reason that as per the above said award they were not entitled to be regularized in service not completing 8 years of service or more as on 31-8-1989 but since they have fulfilled the above said condition of service as on 1-3-1993 and have not been regularized in service they have got the cause of the action to raise the present dispute seeking regularization of their services in terms of the very same scheme framed by the management

on the directions issued by this tribunal in the aforesaid award. The principle laid down by their lordship of Supreme Court in 2004 (103) FLR 460 are not applicable to the present case being distinguished on facts. In the aforesaid case the plea of the workmen to the effect that they were entitled to continue in service was specifically rejected and therefore, subsequent proceedings initiated by them questioning the orders of termination passed against them was rightly hit by the principle of '*res judicata*'. In the instant case the first party workman admittedly were the parties to the above said award and they could not get the relief of regularization having failed to fulfil the condition of 8 years of service or more as on 31-8-1989 and now they have approached this tribunal by way of the present dispute after having fulfilled the said condition. Therefore, the reference on hand cannot be said to be hit by the principles of '*res judicata*'.

13. Now coming to the merits of the case, the management witness as noted above, in very clear words admitted in his cross examination that the workmen whose names are mentioned in the affidavit filed by WW1 are entitled to be regularized in service as per award dated 30-8-1989. the above said statement was with a rider that they would be regularized in service on the basis of seniority and subject to vacancies. It was rightly argued for the first party that the above said award passed by this tribunal to regularize the services of the casual workers who put in 8 years service or more was not subject to any vacancy position or on the basis of the seniority. Therefore, the management cannot take the position that regularization would be subject to vacancy or on the basis of the seniority. This position certainly will be contrary to the above said award passed by this tribunal. It is again not in dispute that rather admitted by MW1 himself that in pursuance to the above said award some of the workmen have been regularized as Malis who had fulfilled the condition of 8 years of service and more in terms of the scheme framed in the light of the award passed by this tribunal. Therefore, in terms of the very same scheme the present 21 workmen who had put in 8 years of service and have been conferred with temporary status, in fact, ought to have been regularized in service irrespective of the fact that there was vacancy or no vacancy so that they also could have benefits of GPF-cum-Gratuity etc. which was available to the regular employees which benefits in fact were being extended to the present workmen but have been denied rather withdrawn, their services not being regularized prior to 1-4-2000 as admitted by the management witness. Therefore, in the light of the above, there cannot be any hesitation for this tribunal to come to the conclusion that the first party union is justified in demanding the regularization of services of the casual labourers engaged in the management on par with the Malis working with the management. Hence the following award :

AWARD

The management is directed to regularize the services of the casual workers working with it on par with the Malis w.e.f. 1-3-1993. They shall not be entitled to difference in wages if any, from 1-3-1993 till the date of passing of this award. However, they will be entitled to all other service benefits, which are available to the Malis working in the management. No order to cost.

(Dictated to PA, transcribed by her, corrected and signed by me on 12th September 2006).

A. R. SIDDQUI, Presiding Officer

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4032.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में निधियों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 104/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-09-2006 को प्राप्त हुआ था।

[सं. एल-12011/14/2005-आई. आर. (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 18th September, 2006

S.O. 4032.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 104/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank, and their workmen, which was received by the Central Government on 18-09-2006.

[No. L-12011/14/2005-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, CHENNAI**

Thursday, the 22nd June, 2006

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 104/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Vijaya Bank and their workmen).

BETWEEN

The Deputy General Secretary,
Vijaya Bank Workers' Organisation

: I Party/Claimant

31/7/06-18

AND

The General Manager (P), : II Party/Management
Vijaya Bank,
H.O. Bangalore.

APPEARANCES

For the Claimant : S/Sri R. Vijayakumar &
S. D. Srinivasan, Authorised
Representatives

For the Management : Sri M. Dinesan, Authorised
Representative

AWARD

The Central Government, Ministry of Labour vide Order No. L-12011/14/2005-IR (B-II) dated 30-05-2005 has earlier referred this dispute to CGIT-Cum-Labour Court, Bangalore, for adjudication. Subsequently, on the request of the Petitioner, this dispute was transferred to this Tribunal by Ministry vide order dated 19-09-2005 for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the management of Vijaya Bank in imposing the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect on Sri M. P. Rajan, Clerk of Mount Road Branch is legal and justified? If not, to what relief the workman is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 104/2005 and notices were issued to both the parties and both the parties entered appearance through their authorised representatives and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner union espouses the cause of Sri M. P. Rajan who is working as a clerical staff at Mount Road Branch of Respondent/Bank. When he was working at Tondiarpet branch of the Respondent/Bank from 25-6-1992 to 23-5-2003, on 23-4-2003 one Sri V. Paneerselvam, Clerk working at the same branch came late to the office 10.10 A.M. and without informing the Branch Manager or Assistant Branch Manager he occupied the seat. During the said incident, Mr. M. P. Rajan workman concerned interfered with the matter for which he was issued with charge sheet dated 30-5-2003 alleging that he had shouted at the Branch Manager questioning his authority in the presence of staff members and customers and the same amounts to acts subversive of discipline and prejudicial to the interest of the Respondent/Bank under clause 5(j) of the Memorandum of Settlement. The explanation given by the concerned employee was not accepted and the domestic enquiry was ordered. But even at the time of alleged incident, investigation was conducted into the whole matter and the investigation official sought the

version of the workman to which the workman has replied. But the investigation report was not made available to the workman to defend himself in the domestic enquiry on the ground that investigation report was not relied upon by the Respondent/Bank. Thus, there was denial of reasonable opportunity on the part of the Respondent/Bank. Secondly Charge Sheet was issued by Sri M. Ratnakar Shetty, DGM as Disciplinary Authority. But, Sri J. Pandian was designated as Disciplinary Authority at the relevant point of time. Therefore, Charge Sheet was issued to the workman by the authority without being vested with powers and without any jurisdiction. During the enquiry, the documents requested by workman concerned to defend his case were also denied and the defence was not allowed to effectively cross-examine the management witness. The Enquiry Officer has acted both as prosecutor and Judge and thus, he has submitted his one sided findings on 30-8-2003. Even though the concerned workman has submitted his representation, the Disciplinary Authority without giving any reason by his order dated 8-10-2003 proposed the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect which was not enumerated punishments to be imposed for gross misconduct. Even though the concerned employee requested the Disciplinary Authority to accord personal hearing in terms of clause 129(a) of Memorandum of Settlement on disciplinary matters dated 10-4-2002, the Disciplinary Authority imposed the punishment of by his final order dated 31-10-2003 deliberately denying the opportunity of personal hearing to the delinquent employee, which is against the principles of natural justice and in violation of provisions of Bipartite Settlement. The appeal preferred by the concerned employee was rejected and the Appellate Authority has no proper application of mind as to the true facts and circumstances of the case. Thus, the Respondent/Bank with a pre-determined mind imposed the punishment on the delinquent workman and decided to punish him irrespective of outcome of enquiry proceedings. The whole case has been stage-managed to victimize the workman. Therefore, the order passed by the Disciplinary Authority and the Appellate Authority are illegal, and unjustified. The Respondent/Management failed to follow the principles of natural justice. Further, the Respondent/Bank has not considered the service records of the concerned employee who has served for more than 28 years in the Respondent/Bank without blemish and adverse remarks. Hence, for all these reasons, the Petitioner union prays to pass an award to set aside the illegal and unlawful punishment imposed on the concerned employee and to restore the increment with retrospective effect with all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the concerned employee Sri M. P. Rajan while working in Tondiarpet branch during the incident with regard to Mr. V. Paneerselvam, Clerk interfered

in the matter and shouted at the Branch Manager in Tamil in the presence of staff as well as customer who have come to transact business at the branch and he said to the Branch Manager in Tamil that "Yes, you are showing partiality, you have no authority to do so." Therefore, he was charged for misconduct that the act of shouting at Branch Manager and questioning his authority in the presence of staff members amounts to an act subversive of discipline and are prejudicial to the interest of the bank which constitutes gross misconduct. Though the concerned employee submitted his explanation, departmental enquiry was ordered against him. After following the procedure, the Enquiry Officer submitted his report and after considering the enquiry report and also the evidence adduced in that enquiry, the Disciplinary Authority on examining the records and submission of concerned employee passed a detailed speaking order on merits observing that charges which are held as proved against him are serious in nature and the act of workman shouting at Branch Manager by questioning his authority that too in the presence of other staff and customers of the branch amounts to insubordination and an act prejudicial to the interest of the bank. The concerned employee preferred an appeal dated 8-11-2003 against the said punishment. The Appellate Authority by its order dated 31-12-2003 dismissed the appeal and it was passed after careful consideration of entire connected records and the grounds of appeal given by the concerned employee. The enquiry was conducted against the concerned employee in compliance with the principles of natural justice and following the provisions of Bipartite Settlement applicable to workman. The punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect imposed on concerned employee commensurate with gravity of the acts of misconduct proved and established against him. It is false to allege that a wrongful punishment is imposed on the concerned employee. No doubt, the Respondent/Bank conducted an investigation into the said matter, however, they did not refer/mention with regard to investigation report in the Charge Sheet issued to workman and no reliance was placed on the said report to establish the charge on the concerned employee. In such an event, since it is not relevant especially when the Respondent/Bank did not desire to examine the investigating official/investigation report by not producing the enquiry report, there is no denial of reasonable opportunity on the part of the Respondent/Bank. The Disciplinary Authority shall be nominated by designation to pass original orders or hear and dispose of appeals from time to time and a notice specifying the authorities so nominated shall be published from time to time on the bank's notice board. The Deputy General Manager, Personnel Department, (IRD) HO Bangalore is designated as Disciplinary Authority in respect of award staff in terms of Chairman's special circular No. 8/2001 dated 16-5-2001 and the said circular is issued in compliance with the above provisions. Therefore, the

Disciplinary Authority issued the Chargesheet is a competent authority. Further, in terms of Chairman's special circular No. 1/2003 dated 30-6-03 change of name of official who was designated as Disciplinary Authority was notified and by which it was informed that Sri M. Ratnakar Shetty, DGM personnel department (IRD) HO was designated as Disciplinary Authority for members of award staff of the Respondent/Bank w.e.f. 19-5-2003. The Chairman's special circular No. 1/2003 is only notifying the name of official. The allegations that the act of Enquiry Officer not having examined the witnesses as requested by the concerned employee is not a denial of opportunity, on the other hand, the concerned employee who has made his request at the far end of enquiry and the witnesses as requested for were working in two city branches and could not be summoned/produced at short notice and as such, the order passed by the Enquiry Officer in this regard was in order and the contention of the Petitioner that the defence was not allowed to produce its witness is false. The enquiry was conducted in compliance with the principles of natural justice and it is also false to contend that the punishment proposed is not one of the enumerated punishments to be imposed for gross misconduct. Since opportunity was given to the concerned employee to make his representation which tantamount to hearing on the proposed punishment and the hearing as contemplated in clause 6 of Memorandum of Settlement on disciplinary action procedure for workmen and therefore, it cannot be interpreted as affording personal hearing. Since the same is not envisaged in the said memorandum of settlement, the said settlement does not provide for any personal hearing/personal interview as alleged by the Petitioner. The Disciplinary Authority while imposing the punishment, service records of the concerned employee both prior to and after the incident was taken into account and only thereafter the said punishment was proposed to impose as against imposing a more deterrent punishment. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again, the Petitioner union in its rejoinder contended that the contention of the Respondent/Bank that the workman shouted at the Branch Manager in front of the customers is totally false and fabricated. Further, it is not necessary for the prosecution to rely upon a particular document in order for the defence to seek for it. On the other hand, relevance and reliance should be viewed from the point of defence and not from the point of view of the prosecution. Hence, non-production of enquiry report despite specific request by the defence representative of the workman to Enquiry Officer has resulted in denial of reasonable opportunity. On the date of issuance of chargesheet and the date of institution of departmental enquiry, the authority who issued chargesheet and constituted the enquiry was not a duly appointed Disciplinary Authority. In not allowing the examination of defence witness is a deliberate action on the part of the Enquiry Officer to block the production of defence witness and the same amounts

to bias and serious prejudice. No doubt, the provisions of Section 6(e) on disciplinary matters mentions that "be brought down to a lower stage in the scale of pay upto a maximum of two stages." and there is no mention about the cumulative effect which is not one of the enumerated/envisaged punishments in terms of provisions of Memorandum of Settlement. Hence, the punishment imposed on the concerned employee is a wrongful punishment and it is illegal. Despite the request made by the concerned employee, hearing was not accorded and therefore, it would be a breach of principles of natural justice to deny such a right to hearing. The findings of the Appellate Authority do not contain any reasoning or question. Hence, the Petitioner prays that an award may be passed in their favour.

6. In these circumstances, the points for my consideration are —

- (i) "Whether the action of the Respondent/Management in imposing the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect on the concerned employee is legal and justified?"
- (ii) "To what relief the concerned employee is entitled?"

Point No. 1 :—

7. In this case, the Petitioner union espouses the cause of Sri M. P. Rajan Clerk of the Mount Road branch of Respondent/Bank. The charge framed against the concerned employee is while he was working at Tondiarpet branch on 23-4-2003, one Mr. V. Panceerselvam clerk working at the said branch came late to the office at 10.10 a.m. and when Mr. B. Jayaprakash, Branch Manager instructed him to sign the movement register for having late to the branch, he misbehaved with him and shouted at him using abusive language and during the said incident the concerned employee interfered with the matter and shouted at the Branch Manager in Tamil as under —

“ஆமாம். நீ பரந்த/யாருமில்லை
நான் பரந்திருக்கிறேன். அம்மாதிரி நான்
உங்களுக்கு எதிராக அங்கு இருக்கிறேன்.”

Thus, his action of shouting at the Branch Manager questioning his authority in the presence of staff and customers amounts to acts subversive of discipline and are prejudicial to the interest of the bank, which constitutes a gross misconduct. For which, the Respondent/Bank initiated domestic enquiry and on the report submitted by Enquiry Officer, the Disciplinary Authority imposed the punishment of reduction of one stage in the scale of pay for a period of one year with cumulative effect. The Petitioner union has attacked this finding and also the punishment imposed on him on several grounds.

8. The first ground alleged by the Petitioner union attacking against the imposition of punishment is that even on the date of incident, an investigation was conducted by the official of the Respondent/Management but neither the copy of investigation report nor statement of witnesses have produced in the enquiry, despite the repeated requests made by the concerned workman and his defence representative and the Petitioner alleged that this caused a serious prejudice to the defence by denial of reasonable opportunity and resulting in utter violation of principles of natural justice.

9. As against this, the Respondent representative contended that the investigation is a fact finding exercise and it is not denied that the Respondent/Bank conducted an investigation into the said matter. However, the Respondent/Bank did not refer/mention with regard to investigation report in the charge-sheet issued to the workman and no reliance was placed on the said report to establish the charge on the workman. In such an event, the plea that it caused serious prejudice to the defence and reasonable opportunity was denied to him is without any substance.

10. But, then again on behalf of the Petitioner, it is contended that though they have not relied on this investigation report in the enquiry, when the defence requires the said investigation report, it should be given to him and he relied on the rulings reported in *STATE OF UTTAR PRADESH Vs. SHATRUGAN LAL AND ANOTHER* 1998 II LLJ 799, wherein the Supreme Court has held that "in the course of preliminary enquiry a number of witnesses were examined against the Respondent in his absence and copies of statements of those witnesses though asked for by the Respondent were not supplied to him. The Tribunal (against whose order the said W.P. filed by the appellant State was filed) was therefore, held to be justified in concluding that principles of natural justice were violated and the respondent was not afforded an effective opportunity of hearing." Relying on this decision, the representative of the Petitioner contended that the preliminary investigation was conducted on the back of delinquent workman, hence the delinquent employee ought to have been supplied with the copy of investigation report along with the statement of witnesses recorded in the preliminary enquiry. He further relied on the rulings reported in *KASINATH DIKSHITA Vs. UNION OF INDIA & ORS* 1986 II LLJ 468 AND *STATE OF UTTAR PRADESH Vs. MOHD. SHARIEFF* reported in 1982 II LLJ 180 and contended that in these judgements, it is well settled even though the articles of charge are not based on the investigation report, the report of the fact finding body has a far-reaching consequence and non-supply of the same would definitely result in miscarriage of justice and would amount to denial of natural justice.

11. But, again the representative for the Respondent relied on the judgement of Supreme Court in *SYNDICATE*

BANK Vs. VENKATESH GURURAO KURATI 2006 (1) LLN 881 and argued that non-supply of documents on which the Enquiry Officer does not rely during the course of enquiry does not create any prejudice to the delinquent and therefore, the contention of the Petitioner is not maintainable.

12. But, though I find some force in the contention of the Respondent, I find as pointed out by the Supreme Court in the earlier case, since in the preliminary investigation, the witnesses were examined against the concerned employee in his absence, these copies of statements of witnesses must have been given to the concerned employee for taking his defence and by refusing the same principles of natural justice has been violated and by this the concerned employee was not afforded with an effective opportunity of hearing.

13. Then the representative for the Petitioner contended that in this case, charge was issued by one Mr. Ratnakar Shett, DGM as Disciplinary Authority, but at the time of issuance of charge-sheet the said person was not designated as Disciplinary Authority and therefore, the action taken by the authority has no power or authority to issue such charge against the delinquent employee and he has also relied on the rulings reported in 1992 II LLJ 838 *RAMOO RAMESH Vs. ANDHRA BANK*, and the judgement of Supreme Court reported in 1992 II CLR 771 *BANK OF INDIA Vs. C. BERNARD* wherein it was held that "when the punishment is imposed by a person, who has no authority to do so, the very foundation on which the edifice is built collapses and with it falls the edifice." He further argued that this case is more or less akin to the case tried by the Supreme Court, which lacks inherent jurisdiction and therefore, he argued that it is not valid in law and the enquiry proceedings stands vitiated.

14. But, as against this, the representative for the Respondent contended that the Deputy General Manager, Personnel (IRD) department, Head Office, Bangalore is designated as Disciplinary Authority in respect of award staff in terms of Chairman's special circular No. 8/2002 dated 16-5-2002 and the said circular is issued in compliance with the above provisions namely clause 14 of Memorandum of Settlement on disciplinary action procedure for workmen, and therefore, the Disciplinary Authority who issued the charge-sheet to concerned employee is competent authority and the contention of workman that disciplinary action against the concerned employee suffers for want of jurisdiction is only an afterthought. Further, the Chairman by a Special Circular No. 1/2003 dated 30-6-2003 has only mentioned the name of the Disciplinary Authority and by which no prejudice was caused to the concerned employee during the enquiry and therefore, this contention is not valid.

15. I find much force in the contention of the representative for the Respondent and therefore, I find the

contention of the Petitioner that disciplinary action taken against the concerned employee by the Disciplinary Authority is without any jurisdiction is without any substance.

16. The next contention of the representative for the Petitioner is the Enquiry Officer has denied the opportunity of examining defence witnesses and the opportunity available to the defence to produce his witnesses was deliberately scuttled with ulterior motive to pre-empt the workman to effectively defend his case and because of this a serious prejudice has been caused to the concerned workman. The alleged incident said to have been taken place on 23-4-2003 and on 1-8-2003, the 2nd day of enquiry before the commencement of examination of any management witness, the concerned employee submitted a letter to the Enquiry Officer naming two witnesses and also requesting for copies of certain documents, but the Enquiry Officer has rejected his request for documents as well as examining the witnesses on the reason that the Enquiry Officer could not summon the witnesses, which is nothing but a deliberate action on the part of the Enquiry Officer to block the production of defence witnesses and this amounts to serious bias and prejudice. The representative for the Petitioner further relied on the rulings reported in *MEEN GLASS TEA ESTATE 1963 II LLJ 392* wherein the Supreme Court has pointed out that after closure of evidence the delinquent must be given a chance to rebut the evidence led against him. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant question by way of cross-examination as he desires. This is the barest requirement of enquiry of this character and this requirement should be substantially fulfilled before the result of enquiry can be accepted. He also relied on the rulings reported in *AIR 1957 SC 882 UNION OF INDIA Vs. T. R. VERMA*, wherein the Supreme Court has held that "Rules of natural justice require that a party should have an opportunity of adducing all relevant evidence on which he relies, that the evidence of opponent should be taken in his presence and that he should be given opportunity of cross-examining the witnesses examined by that party and that no material should be relied on against him without his being given an opportunity of explaining them." He also relied on the rulings reported in *2001 I LLJ 1589 DEOKI NANDAN SHARMA Vs. UNION OF INDIA & ORS* wherein the Supreme Court has held that "reasonable opportunity being afforded to the delinquent employee to adduce evidence during the course of enquiry." But, in this case, even before the examination of prosecution witness, the delinquent has given list of witnesses to be examined, but the Enquiry Officer has rejected his request on the ground that he has not given this list even prior to that date. Therefore, the findings of the Enquiry Officer suffers from serious infirmities and lacks bona fide.

17. But, as against this, the Respondent contended that at the commencement of enquiry on 31-7-2003 the

Enquiry Officer requested the concerned employee to furnish list of documents and names of defence witnesses. However, the concerned employee for the reasons best known to him failed to furnish the same and the defence representative stated that he shall be producing the documents and naming his witnesses after the prosecution case. Hence, it is evident that though due opportunity was afforded to the defence representative to furnish the list of witnesses/documents, the defence failed to furnish the same at the relevant time and in advance, thus, disabling the Enquiry Officer to make arrangements for summoning them for examining on behalf of the defence and only on 1-8-2003 the concerned employee submitted list of witnesses and Enquiry Officer has given rulings that arranging for the presence of witnesses at this stage does not arise as the request for the same should have reached sufficiently in advance and therefore, it cannot be said that Enquiry Officer's order is one-sided or biased.

18. But, on analysing the aspect, I find the reasons given by the Enquiry Officer is not valid. In such domestic enquiry, opportunity of examining defence witnesses arise only after prosecution case, but in this case, even at the beginning itself, even on the first date of hearing, the concerned employee has given list of witnesses, but it was refused on the ground that he has not given the list in the previous hearing. Thus, the basic cannons of principles of natural justice have been flagrantly violated by the Enquiry Officer, which shows his biased nature in this case.

19. The next contention of the Petitioner in this case is at the stage of issuance of 2nd show cause notice even though the concerned employee requested the Disciplinary Authority for personal hearing, it was not given to him, on the other hand, the Disciplinary Authority has passed orders without giving an opportunity of personal hearing to the delinquent and it is argued on behalf of the Petitioner that sub-para (a) of para 12 of Memorandum of Settlement dated 10-4-2002 on disciplinary matters says in such case, he shall be given a hearing as regards the nature of proposed punishment in case any charge is established against him and this is the mandatory requirement and the Disciplinary Authority has no discretion to deny such a personal hearing. But, in this case, the Disciplinary Authority denied this opportunity and the representative for the Petitioner relied on the rulings reported in the case of *STATE BANK OF MYSORE Vs. R. SAMANNA* reported in *1998 I LLJ 297* wherein, while dealing with the meaning of hearing and whether the hearing is different from mere opportunity, the Karnataka High Court has held that "rules require the delinquent official shall be given a hearing as regards the nature of the proposed punishment in case charges were established against him. The rule requires something more than mere opportunity to be afforded to the delinquent official. It requires a hearing to be given. The difference between mere opportunity and hearing is explicit. There may be fusion between the two, but there should not be

confusion between the two concepts. Opportunity may be extended to hearing but hearing cannot be condensed or limited to mere opportunity to file objection or representation. Hearing means ordinarily an opportunity of being heard. That means personal hearing. When the rules governing the conduct of enquiry specifically provide that the hearing shall be given to the delinquent employee he should be given a fair hearing and failure to give such a hearing would vitiate the order of penalty." In this case, though the delinquent employee asked for personal hearing, but for the reasons best known to the Disciplinary Authority, personal hearing was refused by the Disciplinary Authority and therefore, the findings and the punishment imposed by the Disciplinary Authority are vitiated.

20. But, as against this, representative for the Respondent contended that even in the 2nd show cause notice the Disciplinary Authority has proposed the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect and given him an opportunity to make representation if any, on the same. The said opportunity given thereon by the Disciplinary Authority tantamounts to hearing on the proposed punishment and the hearing as contemplated in the above provision namely Clause 12 of Memorandum of Settlement on disciplinary action and the settlement does not provide for any personal hearing/personal interview as alleged by the Petitioner.

21. But, here again, I am not accepting the contention of the Respondent because as pointed out by the Karnataka High Court, it is clear that there is a difference between mere opportunity and hearing is explicit and therefore, hearing means an opportunity of being heard, that means personal hearing. As such, by denial of personal hearing by the Disciplinary Authority, it amounts to denial of opportunity and I think, it vitiates the order of penalty imposed by the Disciplinary Authority.

22. Then, again on behalf of the Petitioner it is contended that in terms of para 12 of the Memorandum of Settlement, the Disciplinary Authority ought to have complied with the provisions namely before awarding the punishment, he shall take into account the gravity of misconduct, the previous record, if any of the employee and any other aggravating or extenuating circumstances that may exist. But, in this case, the Disciplinary Authority has not considered the past twenty eight years records of the concerned employee and he has imposed the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect and therefore, it is not valid in law.

23. As against this, representative for the Respondent contended that it is false to contend that Disciplinary Authority has not considered the past records of the concerned employee. While proposing the punishment, the satisfactory service records of concerned

employee both prior to and after the incident were taken into consideration and only thereafter, the punishment was proposed as against imposing a more deterrent punishment. Hence, the contention of the Petitioner union cannot be accepted. Further, it is contended that the concerned employee committed an act of indiscipline being serious in nature and if the same was not dealt with or condemned immediately, it would subvert the conduct of other employees in the organisation and therefore, the punishment imposed is appropriate and commensurate with the gravity of the charges levelled against him.

24. Though, I find some force in the contention of the representative for the Respondent, since there is flagrant violation of principles of natural justice, I find the action of the Respondent/Bank in imposing the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect is not legal and justified.

25. Again, on behalf of the Petitioner it is contended that even the Appellate Authority has not applied his mind and it is a stereotyped order not akin to the appellate forum, therefore, it is not valid in law. The representative for the Petitioner further contended that even in the final order, the Disciplinary Authority has not applied his mind and in the final order, it has been mentioned that the charges such as refusal to enter in movement register having come late to the branch and shouting at the Branch Manager are proved with the support of sufficient evidence and the contention of the chargesheeted employee on matters of further personal hearing and production of evidence/witness in a non-technical manner before Enquiry Officer would have merited consideration had there been additional evidence to disprove the act of misconduct. In this case, there is no charge against the concerned employee with regard to refusal to enter into the movement register and shouting at the Branch Manager on that behalf. However, the Disciplinary Authority has totally imagined a charge not at all connected to concerned employee and held it as proved. This shows the total prejudiced mind and approach of the Disciplinary Authority besides non-application of mind on his part.

26. I find much force in the contention of representative for the Petitioner. Therefore, the cumulative effect of this contention shows that the action of the Respondent/Management in imposing the punishment of reduction by one stage in the scale of pay for a period of one year with cumulative effect against the concerned employee is not legal and justified and therefore, I find this point against the Respondent.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

27. In view of my foregoing findings that the punishment imposed by the Respondent/Management

against the concerned employee is not legal and justified, I find the concerned employee is entitled to the relief as prayed for by the Petitioner Union and therefore, I set aside the impugned order of punishment imposed by the Respondent/Bank against the concerned employee and direct the Respondent/Bank to restore the increments with retrospective effect with all other attendant benefits. No costs.

28. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd June, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Marked :

For the I Party/Claimant :

Ex. No.	Date	Description
WI	23-04-03	Xerox copy of the letter from investigating official to concerned employee.
W2	26-04-03	Xerox copy of the reply submitted by Sri M. P. Rajan.
W3	01-10-02	Xerox copy of the special circular No. 2/2002 of Respondent/Bank.
W4	30-05-03	Xerox copy of the chargesheet issued to Sri M. P. Rajan.
W5	05-06-03	Xerox copy of the letter from Sri M. P. Rajan to Disciplinary Authority seeking time.
W6	09-06-03	Xerox copy of the letter from Disciplinary Authority to Sri M. P. Rajan.
W7	14-06-03	Xerox copy of the reply to charge-sheet.
W8	23-06-03	Xerox copy of the order of Disciplinary Authority Appointing Enquiry Officer.
W9	23-06-03	Xerox copy of the order of Disciplinary Authority Appointing Presenting Officer.
W10	16-06-03	Xerox copy of the letter from Petitioner union to Respondent/Management.
W11	30-06-03	Xerox copy of the special circular No. 1/2003 of Chairman of Respondent/Bank.
W12	30-06-03	Xerox copy of the enquiry notice.
W13	18-07-03	Xerox copy of the representation of Sri M. P. Rajan Seeking joint enquiry.

Ex. No.	Date	Description
W14	24-07-03	Xerox copy of the representation of Sri M. P. Rajan Seeking joint enquiry.
W15	Nil	Xerox copy of the enquiry proceedings.
W16	01-08-03	Xerox copy of the letter from defence representative to Disciplinary Authority.
W17	24-04-03	Xerox copy of the letter from T. K. Das to DGM.
W18	06-08-03	Xerox copy of the submissions of Presenting officer.
W19	13-08-03	Xerox copy of the submissions of defence representative.
W20	06-09-03	Xerox copy of the letter from Disciplinary Authority to concerned employee enclosing enquiry report.
W21	30-08-03	Xerox copy of the enquiry findings.
W22	11-09-03	Xerox copy of the letter from concerned employee to Disciplinary Authority seeking time.
W23	15-09-03	Xerox copy of the letter from Disciplinary Authority to concerned employee.
W24	21-09-03	Xerox copy of the representation given by M. P. Rajan to Disciplinary Authority.
W25	08-10-03	Xerox copy of the 2nd show cause notice.
W26	20-10-03	Xerox copy of the reply to 2nd show cause notice.
W27	31-10-03	Xerox copy of the final order of Disciplinary Authority.
W28	08-11-03	Xerox copy of the appeal preferred by workman.
W29	31-12-03	Xerox copy of the order of Appellate Authority.
W30	09-06-01	Xerox copy of the Chairman's special circular No. 11/01.
W31	07-10-02	Xerox copy of the special circular No. 62/2002 issued by Chairman of Respondent/Bank.
W32	30-07-03	Xerox copy of the enquiry proceedings held against Sri V. Pannerselvam.
W33	10-04-02	Xerox copy of the Memorandum of Settlement.

For the II Party/Management : NIL.

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4033.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 2/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/164/2004-आई आर (बी-II)]
सी. गंगाधरन, अवर सचिव

New Delhi, the 18th September, 2006

S.O. 4033.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of UCO Bank, and their workmen, which was received by the Central Government on 18-9-2006.

[No. L-12012/164/2004-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 6th June, 2006

PRESENT:

Shri K. Jayaraman, Presiding Officer

Industrial Dispute No. 2/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of UCO Bank and their workmen]

BETWEEN:

Sri M. Rajaramou : I Party/Petitioner

AND

The Zonal Manager, : II Party/Management
UCO Bank, Chennai

APPEARANCES:

For the Petitioner : Ms. G. Manjula, Advocate

For the Management : M/s. Srinath Sridevan,
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/164/2004-IR(B-II) dated 23-11-2004 has

referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows:—

“Whether the action of the management of UCO Bank, Chennai in imposing the punishment of removal from service of Sri M. Rajaramou, Clerk of UCO Bank is legal and justified? If not, what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 2/2005 and notices were issued to both the parties and both the parties entered appearance through their Advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was initially appointed as a sub-staff on 6-3-72 in the Respondent/Bank. Subsequently he was promoted as clerk during 1989. He had put in 21 years of services in the Respondent/Bank. While so, brother's daughter of Petitioner's wife committed suicide while she was staying in Petitioner's house along with her father. Therefore, the Petitioner could not attend the office from 23-8-99 due to ill health. In such circumstances, the 2nd Respondent issued a notice on 13-1-2000 under para XVII of Bipartite Settlement dated 10-4-99 proposing to treat the Petitioner as deemed to have voluntarily retired from the services of the bank on the expiry of the period of 30 days from the date of receipt of notice dated 13-1-2000 which was received by the Petitioner on 17-1-2000. The Petitioner could not report for duty immediately because of his ill health. Subsequently, on 8-6-2000 he has submitted an application requesting the Respondent for reinstatement. He has also explained the circumstances which prevented him from attending the duty. But the Respondent has rejected the representation given by the Petitioner and they have also informed that the Petitioner's name was removed from the rolls of the bank w.e.f. 27-3-2000. The Respondent should not have taken into account the past misconduct particularly when the absence from duty on the earlier occasion have been regularized by treating the period as loss of pay. The delay in raising the dispute regarding employment is due to ill health and the same is covered with medical certificates. Therefore, the action of the Respondent/Bank in removing the Petitioner's name from the rolls of bank w.e.f. 27-3-2000 is in violation of principles of natural justice and contrary to judgements of Supreme Court. Further, the punishment of removal from service imposed on the Petitioner is shockingly disproportionate to the gravity of the alleged misconduct. Therefore, the order dated 13-1-2000 and 3-4-2000 are illegal and violative of principles of

natural justice. Hence, the Petitioner prays that an award may be passed holding that the action of the Respondent/Management in imposing the punishment of removal from service w.e.f. 27-3-2000 is illegal and consequently direct the Respondent to reinstate the Petitioner into service with all consequential benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner is having a long track record of misconduct and delinquency. He went on explained leave from 23-8-99 and never turned up for work thereafter, until the date of his dismissal on 27-3-2000. Thus, there was a utter absence for eight months. He has also a long track record of financial irregularities and unauthorised absence. The allegation about the suicide of his relative and his mental upset are concocted one. On the other hand, when the delinquent employee wrote to the Respondent Bank, he never mentioned all these stories and his simple allegation was when he was travelling to work on 26-11-99, he slipped from the bus and fell down and thereafter, he was suffering from ishaemic heart disease. He also furnished medical certificate to show that he was suffering from heart disease. He also furnished medical certificates to show that he was suffering from heart disease and from lumbago. Therefore, the present story about suicide and depression are all inventions to suit his convenience. Further, the alleged suicide is said to have occurred in April, 1999, but the Petitioner was attending the work during April, 1999. If really, he had been mentally or physically disturbed by suicide, he would have stopped attending the work from April onwards and not from August. Since the Petitioner went on unauthorised leave from 23-8-99 without any kind of explanation, the Respondent issued notice dated 13-1-2000 to the delinquent Petitioner calling upon him to give satisfactory explanation for his absence and also to report for duty within 30 days. Further, the Petitioner failed to appear even pursuance of this notice. Therefore, on 27-3-2000 the Respondent had no option but to treat his lack of response as an admission of the allegation and consequently, removed him from the rolls and this order of removal was also communicated to the Petitioner on 3-4-2000 and finally the Petitioner woke up on 5-6-2000 and sent a representation along with certain other medical certificates and for which reply was issued by the Respondent/Bank on 13-6-2000. After a long lapse of time, he again raised a dispute before the labour authorities. The entire proceedings are belated and vitiated by laches and mala fides. The Petitioner has no interest in the job. Since he has not given any response to the notice issued by the Respondent/Bank and since he did not bother to show cause against the proposed proceedings, the Respondent/Bank proceeded on the basis that the stand taken by it was not objected by the delinquent and he was treated as the case of voluntary retirement and his name was removed from the rolls. Three years after that the Petitioner has

raised this dispute which is time barred. The course of action adopted by the Respondent/Bank is perfectly in consonance with the Petitioner's conduct and Bipartite Settlement. This Respondent has not admitted the truth, genuineness and correctness of the various medical certificates alleged to have been given to the Petitioner. Hence, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

- (i) "Whether the action of the Respondent/Management in imposing the punishment of removal from service on the Petitioner is legal and justified ?
- (ii) To what relief the Petitioner is entitled ?"

Point No. 1 :

6. In this case, it is admitted by the Petitioner that he was unauthorisedly absent from 23-8-99 and it is also admitted by the Petitioner that the Respondent/Bank has issued a notice on 13-1-2000 under para 17 of Bipartite Settlement proposing to treat the Petitioner as deemed to have been voluntarily retired from the bank's service on the expiry of 30 days from the date of receipt of notice dated 13-1-2000. It is also admitted by the Petitioner that he has not joined duty within thirty days from the date of receipt of notice. He alleged that he has given a representation dated 8-6-2000 as to how this Respondent rejected his representation on 13-6-2000 and therefore, the order passed by the Respondent/Bank imposing the punishment of removal from service is illegal.

7. The Petitioner examined himself in this case as WW1 and produced Ex. W1 to W16 and on the side of the Respondent, the Branch Manager of the Respondent/Bank at Mundiymbakkam was examined as MW1 and on their side Ex. M1 to M6 were marked.

8. Learned counsel for the Petitioner contended that in this case, no doubt, the Petitioner was absent for duty from 23-8-99 but it was the case of absent that too on account of his ill health. The Respondent/Management though rejected the representation made by the Petitioner and informed that his name was removed from the bank rolls w.e.f. 27-3-2000. In that letter dated 13-6-2000 namely under Ex. W13, the Respondent apprised about the circumstances for taking this action. The Respondent has also mentioned that he has gone through the past record of service of the Petitioner and stated that "past record shown that the Petitioner remained absent frequently without any prior sanction and without any leave at his credit and such absence to the extent of 465 days upto 31-1-99 was treated on loss of pay. Only after extending maximum leniency, the order has been passed against the Petitioner. Learned counsel for the Petitioner argued that

in this letter, the Respondent took note of the past record of service without putting the Petitioner on notice. In any event, the Respondent should not have taken into account the past misconduct particularly when the absence from duty have been regularised by treating the period on loss of pay. Under such circumstances, the action of the Respondent/Bank in imposing the punishment of removal from service for the absence that too on account of ill health is illegal and arbitrary.

9. But, I find there is no substance in the contention of the learned counsel for the Petitioner. Before going into the merits of this contention, we have to look into the Bipartite Settlement entered into between the union and the management :—

Clause 17 of Bipartite Settlement deals with Voluntary Cessation of Employment by the Employees, which says that :—

- (a) "when an employee absents himself from duty for 90 or more consecutive days without submitting any application for leave or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally or subsequently or when there is a satisfactory evidence that he has taken up employment in India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at any time thereafter, give a notice to the employee at his last known address calling upon him to report for duty within 30 days of the date of notice stating, inter alia, the grounds for coming to the conclusion that the employee has no intention of joining duty and furnishing necessary evidence where available. Unless the employee reports for duty within 30 days of notice or gives an explanation for his absence within the period of 30 days satisfying the management that he has not taken up another employment or avocation and he has no intention of not joining the duty, the employee will be deemed to have voluntarily retired from bank's service on the expiry of the said notice. In the event of the employee submitting satisfactory reply, he shall be permitted to report for duty thereafter within 30 days from the date of expiry of the aforesaid notice without prejudice to the bank's right to take any action under the law or rules of service."

10. In this case, it is admitted by the Petitioner under original of Ex. M9 that the Respondent/Bank has issued notice invoking clause 17 of Bipartite Settlement and it is also admitted that he received the notice on 17-1-2000, but within the thirty days from the receipt of said notice, the Petitioner has not joined duty nor he has given any explanation within the said notice period. On the other

hand, he has sent the representation only on 8-6-2000 asking the Respondent/Management to reinstate him into service. Only in that reply, the Respondent has stated all these things. But even before that under the original of Ex. M10 the Respondent/Bank has informed that his name has been removed from the bank's roll w.e.f. 27-3-2000. Therefore, I find it is futile to contend that the Respondent/Bank took note of past records of service without putting the Petitioner on notice.

11. Learned counsel for the Petitioner further contended that Petitioner's absence is only due to ill health and the same is covered with medical certificate. Under such circumstances, the action of the Respondent/Management in removing the Petitioner's name from the rolls w.e.f. 27-3-2000 is violative of principles of natural justice and contrary to judgements of the Supreme Court. She further relied on the rulings reported in 1993(3) SCC 259 D. K. Yadav *Vs.* JMA Industries, wherein the Supreme Court has held that even if service regularisation provides for termination without any enquiry, the principles of natural justice requires that the affected person should be given an opportunity of making representation of the proposed action otherwise, it will result in violation of fundamental rights under Article 21 of Constitution of India." He further argued that in this case the Respondent admittedly has not conducted any enquiry nor considered the Petitioner's representation dated 8-10-2000. Under such circumstances, the order of termination is illegal.

12. But, here again, I find there is no point in the contention of the learned counsel for the Petitioner, because the Supreme Court in a rulings reported in AIR 2000 SC 2198 Syndicate Bank *Vs.* General Secretary, Syndicate Bank Staff Association while considering the D. K. Yadav's case has held that "two principles emerge from the decisions— (i) principles of natural justice and duty to act in just, fair and reasonable manner has to be read in certified Standing Orders which have statutory force In the present case, action was taken by the bank under clause 16 of Bipartite Settlement. It is not disputed that Mr. Dayananda absented himself from work for a period of 90 or more consecutive days. It was thereafter that the bank served a notice on him calling upon to report for duty within 30 days of the notice stating therein the grounds for the bank to come to the conclusion that Dayananda had no intention of joining duties and Dayananda did not respond to notice at all. On the expiry of the notice period the Respondent/Bank passed orders that Dayananda had voluntarily retired from the services of the bank principles of natural justice are inbuilt in clause 16 of Bipartite Settlement. It is no point laying stress on the principles of natural justice without understanding their scope or real meaning. There are two essential elements of natural justice which are— (a) no man shall be Judge in his own cause and (b) no man shall be condemned either civilly or criminally without being afforded an opportunity of being heard in answer to the

charge made against him. The bank has followed the requirements of clause 16 of Bipartite Settlement and it rightly held that Dayananda has voluntarily retired from services of the bank. Under these circumstances, it was not necessary for the bank to hold any enquiry before passing the order. An enquiry would have been necessary, if Mr. Dayananda had submitted his explanation which was not acceptable to the bank or contended that he did report for duty but was not allowed to join by the bank. Nothing of the like has happened here. Assuming for a moment that enquiry was necessitated, evidence led before the Tribunal clearly showed that notice was given to Dayananda and it is he who defaulted and offered no explanation of his absence from duty and did not report for duty within 30 days of the notice as required in Clause 16 of the Bipartite Settlement." Relying on this decision, learned counsel for the Respondent contended that the same analogy is applicable to the facts of the present case. In this case, the Respondent/Management issued notice under original of Ex. W5 to the Petitioner to join duty within 30 days of the notice. But, even after the receipt of the notice, the Petitioner has not joined duty only after that on 3-4-2000 the Respondent/Bank has taken a decision that Petitioner has voluntarily retired from the services of the Respondent/Bank as per provisions under clause 17 of Bipartite Settlement. Under such circumstances, there is no point in the contention of the learned counsel for the Petitioner that no opportunity was given to the Petitioner to represent his case. Learned counsel for the Respondent further contended that copy of medical certificates even though produced by the Petitioner, they are subsequent to the order passed by the Respondent/Bank and therefore, they are not helpful for the Petitioner in any way.

13. I find much force in the contention of the Respondent. Therefore, I find there is no substance in the contention of the learned counsel for the Petitioner that the order passed by the Respondent/Management under Ex. W6 is violative of principles of natural justice.

14. Then, again the learned counsel for the Petitioner contended that the punishment of removal from service imposed on the Petitioner is shockingly disproportionate to the gravity of the alleged misconduct. In this case, no doubt, the Petitioner absented from duty from 23-8-99, but this absence was only due to his ill health of the Petitioner and the Petitioner has produced several medical certificates and under such circumstances, the punishment imposed on the Petitioner is disproportionate to the gravity of the alleged misconduct.

15. But, here again, I find there is no point in the contention of the learned counsel for the Petitioner because clause 17 of Bipartite Settlement clearly states about the voluntary cessation of employment by employees and in this case, the Respondent/Bank has taken action against the Petitioner under clause 17 of Bipartite Settlement and

at no stretch of imagination, it can be said that the order passed by the Respondent/Management is against the provisions of Bipartite Settlement and therefore, it cannot be said that it is a punishment and it is only mutual agreement as per Bipartite Settlement, and hence the order has been passed. Therefore, it cannot be said that the punishment is shockingly disproportionate to the gravity of the misconduct. In view of these reasons, I find the action taken by the Respondent/Management in imposing the punishment of removal from service on the Petitioner is legal and justified.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

16. In view of my foregoing findings that the punishment of removal from service imposed on Sri M. Rajaramou by the Respondent/Management is legal and justified, I find the Petitioner is not entitled to any relief as prayed for. No Costs.

17. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed typed by him, corrected and pronounced by me in the open court on this day the 6th June, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner : WW1 Sri M. Rajaramou
For the Respondent : MW1 Sri S. Nagarajan

Documents Marked :

For the I Party/Claimant :

Ex. No.	Date	Description
W1	27-04-95	Xerox copy of the FIR for suicide committed case.
W2	16-04-99	Xerox copy of the FIR copy of suicide committed by Petitioner's brother-in-law's daughter.
W3	16-04-99	Xerox copy of the paper publication for suicide.
W4	23-08-99	Xerox copy of the medical certificate.
W5	13-01-00	Xerox copy of the notice issued by Respondent.
W6	03-04-00	Xerox copy of the notice issued by Mundiampakkam branch.
W7	01-05-00	Xerox copy of the medical certificate given by Dr. Balaraman.
W8	08-05-00	Xerox copy of the admission receipts of Govt. Hospital.

Ex. No.	Date	Description
W9	08-05-00	Xerox copy of the ECG report of Petitioner
W10	17-05-00	Xerox copy of the letter from Mundiampakkam branch to Petitioner
W11	28-05-00	Xerox copy of the fitness certificate submitted by Petitioner
W12	08-06-00	Xerox copy of the representation given by the Petitioner
W13	13-06-00	Xerox copy of the order of rejection by Respondent
W14	29-06-00	Xerox copy of the letter from Respondent for settlement of terminal benefits of Petitioner
W15	31-01-03	Xerox copy of the certificate issued by fire service deptt.
W16	Nil	Xerox copy of the discharge slip given by govt. hospital

For the II Party/Management :

Ex. No.	Date	Description
M1	21-12-92	Xerox copy of the chargesheet issued to Petitioner
M2	05-02-93	Xerox copy of the order passed by Respondent/Bank
M3	08-09-94	Xerox copy of the chargesheet issued to Petitioner
M4	03-11-94	Xerox copy of the chargesheet issued to Petitioner
M5	07-04-93	Xerox copy of the order passed by Respondent/Bank
M6	28-08-95	Xerox copy of the order passed by Respondent/Bank
M7	03-08-99	Xerox copy of the attached order passed by Cuddalore Court
M8	03-08-99	Xerox copy of the attached order passed by Cuddalore Sub Court
M9	13-01-00	Xerox copy of the notice issued by Respondent/Bank
M10	03-04-00	Xerox copy of the letter issued by Respondent/Bank to Petitioner
M11	01-05-00	Xerox copy of the medical certificate given by Dr. Balaraman
M12	05-05-00	Xerox copy of the medical certificate given by Dr. Balaraman
M13	08-05-00	Xerox copy of the ECG report of the Petitioner

Ex. No.	Date	Description
M14	08-05-00	Xerox copy of the admission receipt of Govt. Hospital
M15	08-06-00	Xerox copy of the representation given by Petitioner
M16	13-06-00	Xerox copy of the rejection order passed by Respondent

नई दिल्ली, 18 सितम्बर, 2006

का. आ. 4034.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टूटिकोरिन पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 116/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-9-2006 को प्राप्त हुआ था।

[सं. एल-44012/2/2005-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 18th September, 2006

S.O. 4034.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 116/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Tuticorin Port Trust and their workmen, which was received by the Central Government on 18-9-2006.

[No. L-44012/2/2005-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 24th July, 2006

PRESENT:

Shri K. Jayaraman, Presiding Officer

Industrial Dispute No. 116/2005

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Tuticorin Port Trust and their workmen]

BETWEEN:

The Chief Secretary, : I Party/Claimant
Tuticorin Port Employees'
Trade Union, Tuticorin

AND

The Chairman, : II Party/Management
Tuticorin Port Trust,
Tuticorin

APPEARANCES:

For the Petitioner : M/s. K. M. Ramesh,
Advocates

For the Management : M/s. G. Dhamodaran,
Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-44012/2/2005-IR(B-II) dated 31-10-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned order is as follows :—

“Whether the denial by the Tuticorin Port Trust, Tuticorin for reimbursement of medical claim bill of Rs. 44,987.74 submitted by Shri M. Manohar as per the CS (MA) Rules, 1994 is legal and justified? If not, to what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I. D. No. 116/2005 and notices were issued to both the parties and both the parties entered appearance through their Advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner union in the Claim Statement are briefly as follows :—

The Petitioner union espouses the cause of the concerned employee Sri M. Manohar in this dispute. Prior to 1-4-79 the Port was a Central Govt. department and thereby followed the Central Govt. rules and regulations in toto. After that the Port came to be a major Port Trust, all the Central Govt. rules and regulations were ceased to be in force w.e.f. 1-4-79 and separate regulations were framed and noticed in official gazette. The medical facilities in the Respondent Port are being given to family members of employees/officers on par with the Central Govt. employees by virtue of provisions contained in Tuticorin Port Trust Employees Regulations, 1979 and also applicable CS(MA) Rules, 1944. While so, the concerned employee's wife Mrs. M. Santhakumari while she has attended a marriage function at Azhagiapandiapuram village, which is the native place of the concerned employee from 20-8-03 to 22-8-03 suffered from acute stomach pain on 22-8-03. Relatives of the concerned employee admitted her at M/s. Annai Velankanni Hospital, Palayamcottai/Tirunelveli immediately. After admission, as per the Doctor's advice the patient to continue the treatment there itself as the employee's wife was affected by acute appendicitis 'C' Fibroid Uterus (Adenosis) and over bleeding. Therefore, the concerned employee issued a telegraph message to the Financial Adviser and Chief Accounts Officer/Tuticorin Port Trust and the Chief Medical Officer regarding his wife's admittance in hospital on

23-8-2003 and as directed by the Doctor he continued the treatment at M/s. Annai Velankanni Hospital, Palayamcottai as an emergency case and on the advice of the Lady Doctor an emergency operation was done for appendicitis and over bleeding. While so, when he claimed reimbursement of medical expenses. His claim was rejected by the authority concerned vide letter dated 28-11-2003 and 23-3-2004 without furnishing any reasons. But, the claim of the concerned employee is genuine and a bonafide one. As per Appendix VIII of CS(MS) rules, 1944 in emergent cases, treatment could be taken in private hospital, but without taking into consideration of the facts mentioned above, the medical reimbursement bill is rejected for the reasons best known to the administration. In a similar case, a medical bill has been sanctioned by the authority considering the facts of the case. Even after several representations seeking reimbursement of medical claim, the Respondent/Management rejected the said claim without furnishing any reasons. Hence, the Petitioner union has represented the matter to the management, but the Respondent/Management has rejected the claim of the Petitioner union as no fresh grounds were elucidated to consider his case. Hence, the Petitioner union raised the dispute before Assistant Labour Commissioner (Central) and on the failure of conciliation, the matter was referred to this Tribunal. Hence, for all these reasons, the Petitioner union prays this Tribunal to pass an award for reimbursement of medical bill of Rs. 44,987.74

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is governed by Central Services (MA) Rules, 1944 and the same have been made applicable by virtue of the provisions contained in Tuticorin Port Trust (Adoption of Rules) Regulations, 1979 approved by the Central Govt. and published in Gazette. The Tuticorin Port Trust is practically under the administrative control of Ministry of Shipping, Government of India. Further, in addition to Central Services (Medical Attendant) Rules, 1944, office memorandum dated 19-2-2000 has come into force wherein the procedure has been streamlined for obtaining treatment in private hospital for emergent nature. In that memo, it is stated that the treatment be construed as emergent, if the surgery is performed within six hours of admission of patient for surgery, otherwise it shall not be construed as emergent nature at any cost. Further, after taking the treatment in private hospital by an employee/staff of the Respondent/Management may be taken into consideration, if there is no Govt. Headquarters Hospital/Port recognised hospital nearby the place of residence of the employee/staff and within this parameter only, the reimbursement of medical expenses incurred on treatment in outside private clinic, shall be considered that too only emergent cases, involving

life-threatening accident, heart attack and sudden paralytic attack. In clause IV of the Office memorandum dated 19-2-2000, it is categorically stated that the reimbursement of medical expenses incurred on treatment in private clinic shall not be admissible except in cases detailed in para (ii) of the said paragraphs. In this case, though the Petitioner union alleged that the concerned employee's wife was treated at Palayamkottai/Tirunelveli where the Govt. Headquarters hospital/Govt. Medical College hospital is situated having Doctors/Experts in all specialised faculties and also having modern equipments for treating patients either at O. P. or as inpatient as required is available. Further, in that case, the operation for the concerned employee's wife was conducted after seven days from the date of admission in a private nursing home. The Respondent/Management has got ambulance facility in order to bring patient from outside Tuticorin or within Tuticorin. On the other hand, the concerned employee has not made any request at no point of time from Palayamkottai to take his wife to Port Trust hospital and further the Port Trust has not known why the staff had not made any request in this regard. Since the claim made by the concerned employee is not in accordance with the O. M. dated 19-2-2000 the Respondent/Management has not approved the medical bill. Further, the operation done to the wife of the concerned employee is not all an emergent operation as per medical records and the wife of the concerned employee had been taking treatment for her ailment for quite a long time. It is the bounden duty of the concerned employee to avail facilities available and earmarked for the employees in the hospital of the II Party/Management. It is false to allege that in similar circumstances, the Respondent/Management has sanctioned medical reimbursement. At no point of time, this Respondent sanctioned any medical bill for the alleged similar cases. Reimbursement of medical bill was given only to staff/employee/officer, if at all the claim is in accordance with the concerned medical reimbursement rules and office instructions. The Respondent was not able to sanction the claim of the concerned employee purely because the claim was not in accordance with rules governing reimbursement of medical expenses incurred by the concerned employee. Hence, the Respondent prays that the claim may be dismissed with costs.

5. As against this, the Petitioner union filed a rejoinder in which it is stated that the Respondent has no manner of right to question the designation assigned to the office bearer of I Party union. When once the Respondent has admitted that Central Service (Medical Attendant) Rules, 1944 as amended/modified by the Govt. from time to time alone is applicable to workman employed in II Party/Management. The O. M. dated 19-2-2000 is without the approval of the Govt. and which is invalid in the eye of law and thereby could not be applied in the case of concerned employee. There cannot be a provision that surgery within six hours alone is emergent nature. Therefore, O. M. dated 19-2-2000 of II Party/Management is illegal and there is no

sanctity of law and the same cannot be pressed into service. The wife of the concerned employee involved in serious nature of illness of acute stomach pain at her native place of Azhagiapandiapuram which is a very remote village and there is no nearby Govt. or recognised hospital and therefore, she was taken to a private hospital namely Annai Velankanni Hospital, which is alone nearby hospital from the place of illness. The concerned employee also consulted the Doctors for the possibility of shifting and transporting the patient either to Govt. Hospital or to Port Trust hospital. But the concerned Doctor of Annai Velankanni Hospital strictly advised that the patient could not be transported anywhere and to continue treatment there to save the patient. Only because of that the concerned Doctor has sent information to the higher officials of the Respondent/Management that the wife of concerned employee was treated as emergency and all the precautions and treatment was given to her and after observation of all the formalities, the patient necessitated emergency surgery on 28-8-03 as is evident from the hospital discharge certificate. It is for the Doctors who treated the patient is to recognise and justify as to whether the patient is having emergent nature of illness based on the conditions prevailing at the time of admission and subsequent treatment. The Doctors who treated the wife of the concerned employee has considered and justified that the patient was having emergency nature of illness after examining her thoroughly. The Government of India in Appendix VIII under Central Services (M. A.) Rules has streamlined and issued its decision and according to para (1) of Appendix VIII, in emergent cases involving accident, serious nature of disease etc. the person on the spot may use his discretion for taking patient for treatment in private hospital in case, no Govt. or recognised hospital is available nearer than the private hospital and para 2 of the Appendix VIII stipulates that patient while in a private hospital should act according to the advice of the hospital authorities. Since there is no Govt. or recognised hospital available nearer than the Annai Velankanni Hospital from the place of illness, she was taken to Annai Velankanni Hospital. Therefore, the treatment taken at private hospital for the wife of concerned employee is fully in accordance with and fulfilling the conditions laid down in CS (MA) Rules, 1944 and the O. M. dated 19-2-2000 issued by II Party/Management is illegal and not at all applicable. Hence, for all these reasons, the Petitioner union prays for an award in their favour.

6. In these circumstances, the points for my consideration are :—

- (i) "Whether the denial by the Respondent/Management for reimbursement of medical claim bill of Rs. 44,987.74 submitted by the concerned employee Sri M. Manohar is legal and justified ?
- (ii) To what relief the concerned employee is entitled ?"

Point No. 1 :

7. The dispute is raised for reimbursement of medical bill claim for Rs. 44,987.74 submitted by Mr. M. Manohar, an employee of the Respondent/Management, which was rejected by the Respondent/Management. According to the Petitioner, the wife of the concerned employee. Smt. M. Santhakumari while she had been attending a marriage function at his native place from 20-8-03 to 22-8-03, she has suffered from acute stomach pain from 22-8-2003 and their relatives admitted her in Annai Velankanni Hospital, Palayamkottai/Tirunelveli immediately and while the concerned employee rushed to the hospital in the evening, the Doctor advised him to continue the treatment as his wife was affected by acute appendicitis 'C' Fibroid Uterus (Adenomosis) and over bleeding and hence, he issued a telegram message to Financial Adviser and Chief Accounts Officer and Chief Medical Officer regarding his wife admittance in hospital and as directed by the Doctor, he continued the treatment at Palayamkottai Annai Velankanni Hospital as an emergency case and his wife underwent emergency operation for appendicitis and over bleeding and when he claimed the medical bill, it was rejected by the Respondent/Management without giving any reasons and after several representations, the union has raised this dispute.

8. But, on the other hand, it is contended on behalf of the Respondent that the Respondent/Management is governed under Central Service (Medical Attendant) Rules, 1944. In addition to the said Rules, office memorandum dated 19-2-2000 which was came into force after February, 2000, wherein the procedure has been streamlined for obtaining treatment in private hospital for emergent nature and in that memorandum, treatment is construed as emergent, if surgery is performed within six hours of admission of patient for surgery, otherwise, it shall not be construed as emergent nature at any cost. It is also contended on behalf of the Respondent that treatment on private hospital by an employee may be taken into consideration, if there is no Govt. Headquarters Hospital/port recognised hospital nearby to place of residence of the employee and further under this memorandum it is stated that as emergent cases involving life threatening accident, heart attack sudden paralytic attack treatment shall only be considered. It is categorically stated that the reimbursement of medical expenses incurred on treatment in private clinics shall not be admissible except in cases detailed in para 2 of the said memorandum. In this case, the operation of the concerned employee's wife has been performed after seven days from the date of admitting her in a private nursing home and therefore, it cannot be construed as an emergent operation. Further, the Respondent/Management is also having fully equipped ambulance facility in order to bring patient from outside Tuticorin or within Tuticorin. In this case, the concerned employee has not made any request to take his wife to port

trust hospital or Palayamkottai Government Headquarters Hospital. Since the treatment availed of in a private nursing home at Palayamkottai/Tirunelveli by the concerned employee is not in accordance with the O. M. dated 19-2-2000, the Respondent/Management is not in a position to accept the claim made by the concerned employee.

9. But, again on behalf of the Petitioner it is contended that the office memorandum dated 19-2-2000 of the Respondent/Management is illegal and has no sanctity of law and the same cannot be pressed into service. Since the wife of the concerned employee involved in serious nature of illness of acute stomach pain at her native place, which is a very remote village and there is no nearby Govt. or recognised hospital, she was taken to a private hospital namely M/s. Annai Velankanni Hospital which is alone nearby hospital from the place of illness and as such, the concerned employee is entitled to be reimbursed with regard to his medical claim.

10. Learned counsel for the Petitioner has filed 13 documents, while on the other side, the Respondent/Management has filed only the office memorandum dated 19-2-2000 which is marked as Ex. M1. Learned counsel for the Petitioner relied on the rulings reported in SCC and Administrative Tribunal Reports and argued that the contention of the Respondent/Management that claim made by the concerned employee is not coming under the provisions of Office Memorandum dated 19-2-2000 is of no substance because the Supreme Court and High Courts have clearly stated that in case of emergency, no one can expect the concerned employee to bring his wife to the port trust hospital which is far away from the place of his native and under such circumstances, it is futile to contend that the claim was not made within the four walls of office memorandum. He relied on the first case reported in 1996 2 SCC 336 Surjit Singh Vs. State of Punjab wherein Mr. Surjit Singh, Deputy Superintendent of Police while he was in England he fell ill due to his heart problem and as an emergency case, he was admitted in Dudley Road Hospital, Birmingham. After diagnosis, he was suggested treatment at a named alternate place and thus, to save himself, Mr. Surjit Singh got himself admitted and operated upon in Humara Hospital, Wellington, London for a bypass surgery. While he claims to have been hospitalised from 25-7-88 to 4-8-88 for Rs. 3.00 lakhs allegedly spent on his treatment at London, the department expressed its inability to sanction for medical reimbursement and when the matter came up before the Supreme Court, the Supreme Court had held that "it is otherwise important to bear in mind that self-preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable: The importance and validity of the duty and right to self preservation has a species in the right of self-defence in criminal law He did not have to stand in queue before the Medical Board the manning and

assembling of which barefacedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the government hospital of AIIMS and could go elsewhere to an alternative hospital as per policy. When the State itself has brought Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to Escorts and his claim cannot on that basis be allowed on suppositions. We think to the contrary. In the facts and circumstances, had the appellant remained in India, he could have gone to Escorts like many others did, to save his life. But instead he has done that in London incurring considerable expenses. The Doctors causing his operation there are presumed to have done so as one essential and timely. On that hypothesis, it is fair and just that the Respondents pay to the appellant, the rates admissible as per Escorts. The claim of the appellant having been found valid, the question posed at the outset is answered in the affirmative." The next ruling relied on by the Petitioner is reported in 1996 2 ATJ 16 N. M. Rokde Vs. Union of India and another wherein the Central Administrative Tribunal, Jabalpur Bench has come to the conclusion in a similar case that "the fact is that the applicant did not obtain consent technically in the proforma prescribed yet it cannot be denied that he made the payment to the Apollo Hospital in full," and relied on the rulings reported in 1996 2 SCC 336, the Bench has held that the employee is entitled to be reimbursed the balance of the amount. The next rulings relied on by the learned counsel for the Petitioner is reported in 1997 1 ATJ 68 Smt. Kamal Sabharwal Vs. Union of India and others wherein the Central Administrative Tribunal, Chandigarh Bench while considering the reimbursement of medical claim for the treatment taken in a private hospital has held that "Courts have been repeatedly mentioning through various judgements that justice is a virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way. Even the law bends when justice so requires, and this would be more so while considering the law on administrative side. Still cases like the present one keep on coming before the Courts where genuine claims are thrown out by the competent authority of higher status on technicalities, throwing the demand of justice to the air by referring to the rules picked up from the rule-book, even when they could grant it under the rules The patient or Govt. official entitled to medical reimbursement can get reimbursement for charges in such private hospital under the rules given in this appendix. It has further held that "it was the case of emergency and requirement of getting prior permission for taking the patient out of State could not have been obtained. Such things take time and the attendants of a serious patient cannot keep on waiting for the benevolent look of the superiors for grant of such permission which may in itself take a number of days and in some cases even months." The next decision relied on by the learned counsel for the Petitioner is 1998 1 ATJ 55 Amar Nath Dhingra Vs.

State of Punjab wherein the Punjab and Haryana High Court has held that "the Petitioner had a sudden heart attack on 16-8-95, immediately he was rushed to Batra Hospital and Medical Research Centre, New Delhi in such a situation, his claim for medical reimbursement is not to be opposed by the State on the ground that he did not obtain pre-approval from District Medical Board. If one who suffers heart attack is to get medical reimbursement only if he had obtained pre-approval from medical board, then Govt. may not be called upon to pay compensation. The patient if waits for pre-approval for undergoing treatment, we are sure that approval will be given only after the patient reaches the other world. The stand that for undergoing emergency treatment, Govt. will effect reimbursement only if pre-approval from medical board is obtained is to say the least unreasonable and inhuman. Hence, the contention of the Respondents that the Petitioner is not to get medical reimbursement on the ground that he failed to obtain prior approval from Medical Board has to be ignored." Then the learned counsel for the Petitioner relied on rulings reported in 2000 (1) ATJ 582 Smt. Gouri Sengupta Vs. State of Assam wherein the High Court has held that "a right it correlates to duty upon another individual that is employer, Govt. of authority. The right of one is an obligation of another. Hence, the right of a citizen to live under Article 21 casts obligation on the State. This obligation is further reinforced under Article 47". It is for the State to secure health to its citizen as its primary duty and therefore held that "denial of reimbursement of medical expenses on the ground that the Petitioner got treatment in a private nursing home which is not a recognised by the Govt. is not justified." The next decision relied on by the learned counsel for the Petitioner is reported in 2001 1 ATJ 654, S. P. Kapur Vs. Union of India wherein the Division Bench of the High Court has held that "in a situation of emergency, if a person rushed to a nearby hospital in order to save his life, he cannot be denied reimbursement of medical expenses even though such a hospital was not recognised." The next decision relied on by the learned counsel for the Petitioner is reported in 2002 2 ATJ 446 K. P. Damodaran Vs. Joint Director, CGHS, Trivendrum and Ors. wherein the Central Administrative Tribunal has held that "applicant is a retired civil servant and a cardholder of CGHS. The treatment of applicant's wife was outside the CGHS area in a private hospital which is not recognized. According to clause 17(3) of CGHS compilation, the facilities under the scheme would be available to pensioners limited to the area covered by the scheme, and no reimbursement is to be made when pensioners and members of their families like medical treatment at a place not covered by the scheme, unless specifically authorised by the Ministry of Health. Therefore, generally, if treatment is had by the pensioner, who is a card holder or by a members of his family outside the CGHS area and in private hospital, the expenses incurred would not be reimbursable unless such reimbursement is specifically authorised by Ministry of Health and Family

Welfare. In which, the Division Bench has also held that "As a matter of common knowledge, diseases come without notice when same is suddenly affected by a serious ailment. The first attempt would be to get treated rather than going through the finalities of approaching the Ministry for permission. The applicant has alleged that on the way to Trivendrum, the applicant's wife had to be admitted in Amritha Institute of Medical Sciences and Research Centre under emergent circumstances and this fact is borne out from materials placed on record. This statement has not been denied by Respondents in their reply statement also. Therefore, the applicant could not have got prior approval for treatment in private hospital outside the CGHS area as the admission and treatment was under the emergent circumstances to save life." As such, the Central Administrative Tribunal has directed the Govt. to make reimbursement to the applicant all the amount claimed by him. Relying on these decisions, the learned counsel for the Petitioner contended that since the concerned employees's wife who had gone to his native place to attend a marriage was suddenly fell ill and she was immediately admitted in the nearby private hospital and in such circumstances, the rejection of medical claim made by the Respondent/Management is illegal.

11. But, as against this, learned counsel for the Respondent contended that it is known to everybody that in respect of acute appendicitis there should be an immediate operation. But, in this case, admittedly the operation had been taken place only after six days from the date of admission and therefore, it cannot be said that the operation was done emergently, hence, it is not at all emergent in nature. Further, in this case, though it is alleged that nearby hospital to the concerned employee's native place is the M/s. Annai Velankanni Hospital in Palayamkottai, Palayamkottai and Tirunelveli are one and the same place and the patient could have been admitted either in headquarters hospital or Tirunelveli Medical College Hospital which is six to seven kilometers from the private nursing home. Further, there are many more experts available in each department both in Headquarters Hospital and medical college hospital comparatively with that of private nursing home. There are more experts available in the two Govt. Hospitals at Tirunelveli which is very nearer to the place of private nursing home and therefore, the claim made by the Petitioner is not tenable. It is further contended on behalf of the Respondent that as per provisions of Major Port Trust Act, 1963 the Chairman of the Respondent Trust has power, authority and jurisdiction to streamline each and every affairs of the Port Trust inclusive of medical expenses of all the staff of Port Trust. Thus, the Chairman has same powers as are exercisable by Head of Departments of Govt. under various rules adopted. Therefore, any office memorandum inclusive of the said memo relates to reimbursement of medical claim dated 19-2-2000 is having legal and contractual force in all

respects and therefore, the terms and conditions mentioned in O. M. are binding on the Respondent Port Trust as well as staff of Port Trust inclusive of the members of the Petitioner union. The Petitioner union has not at all impugned the office memorandum dated 19-2-2000 in any manner before any Court of law. They have also not taken any objection regarding enforcement of the said memorandum on and from 19-2-2000 and therefore, the said office memorandum becomes part and parcel of the condition of service of the staff members of the Respondent Port Trust and any claim in this respect of any medical reimbursement shall be in accordance with the said office memorandum. This office memorandum clearly states that henceforth no claim for reimbursement of medical expenses incurred for obtaining medical treatment in the outside private hospital shall be considered. However, only in emergent cases involving life threatening accident, heart attack, sudden paralytic attack treatment can be availed in private hospital provided, no Govt. or Port recognised hospitals are available near the place of residence of the employee. Therefore, before getting reimbursement of medical claim which was done in a private hospital, the employee must satisfy that his/her case is an emergent nature involving life threatening accident, heart attack or sudden paralytic attack and so on. Further, he has to establish before the Respondent/Management that there was no Govt. hospital or port recognised hospital available nearby the place of the employee. In this case, it cannot be said that the treatment given to the concerned employee's wife is an emergent case involving life threatening accident or heart attack or sudden paralytic attack. Secondly, it is not established before this Tribunal that there was no Govt. hospital or port recognised hospital available near the place of the residence of the employee namely Azhagiapandiapuram. On the other hand, it is an admitted fact that treatment given to the concerned employee's wife was at Palayamkottai which is very nearer to Tirunelveli town, wherein Headquarters hospital and Medical College hospital are available. Under such circumstances, as both these conditions have not been fulfilled, it cannot be said that the concerned employee is entitled to the claim of medical reimbursement. It is further argued on behalf of the Respondent that though the counsel for the Petitioner relied on the rulings of Supreme Court, High Courts and CAT judgements, they are not similar or identical to the facts of this case and therefore, this Tribunal need not rely on the decisions cited by the counsel for the Petitioner. Further, it is argued that all the cases mentioned in the aforesaid decisions are very serious in nature namely with regard to heart ailments. But, in this case, at no stretch of imagination, it can be said that emergent operation was necessary for the concerned employee's wife, because six days after the admission of the concerned employee's wife, she had underwent an operation and under such circumstances, it cannot be said that it was an emergent one, which required admission in a private hospital.

12. I find much force in the contention of the learned counsel for the Respondent. No doubt, the rulings relied on by the learned counsel for the Petitioner has stated that self-preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable. In this case, the Petitioner union has not established that the concerned employee's wife required emergent operation immediately as mentioned in the Office Memorandum. Further, the concerned employee's wife was operated only after six days from the date of admission. Furthermore, while the District Headquarters hospital and Govt. Medical College Hospital are available in the vicinity of the concerned employee's residence, for what reason the concerned employee's wife was admitted in the private hospital has not been explained by the Petitioner union. Under such circumstances, I am not inclined to allow the claim of the Petitioner. As such, I find this point against the Petitioner union.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled ?

13. In view of my foregoing findings, I find the concerned employee is not entitled to any relief. No Costs.

14. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th July, 2006).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Marked :

For the I Party/Claimant :

Ex. No.	Date	Description
W1	28-11-03	Xerox copy of the letter from Respondent/Management rejecting the claim of the concerned workman
W2	23-03-04	Xerox copy of the letter from Respondent once again rejecting the claim of concerned employee
W3	08-07-04	Xerox copy of the letter from Respondent once again Rejecting the claim of concerned employee
W4	20-07-04	Xerox copy of the representation given by concerned employee to the President of Tuticorin Port Trust
W5	30-08-04	Xerox copy of the letter from Respondent to Petitioner Union against their representation

Ex. No.	Date	Description
W6	16-08-79	Xerox copy of the office memorandum in Swamy's rules
W7	Nil	Xerox copy of the appendix VIII of CS(MA) rules, 1944. To show that in emergent cases treatment could be taken in private hospitals.
W8	Nil	Xerox copy of the discharge card issued by M/s. Annai Velankanni Hospital in respect of the wife of concerned employee.
W9	14-10-03	Xerox copy of the letter from concerned employee to Chief Medical Officer of Respondent/Management.
W10	21-01-04	Xerox copy of the letter from concerned employee to II Party/Management.
W11	07-06-04	Xerox copy of the letter from the concerned employee to the II Party/Management.
W12	15-02-05	Xerox copy of the letter from Petitioner union to Assistant Labour Commissioner (Central) Madurai.
W13	12-02-00	Xerox copy of the minutes of Board of Trustees meeting of II Party/Management.

For the II Party/Management :

Ex. No.	Date	Description
MI	19-02-00	Xerox copy of the office memorandum issued by Tuticorin Port Trust

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4035.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 233/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/295/1996-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 19th September, 2006

S.O. 4035.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 233/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 19-9-2006.

[No. L-22012/295/1996-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/233/97

Shri C.M. Singh, Presiding Officer

Shri Ramcharan S/o Shri Kanwar Singh,
Clipman, Ghorawari Colliery,
R/o Puraina, Post Ghorawari,
Distt. Chhindwara (MP) ... Workman

Versus

The Manager,
Ghorawari Colliery of WCL,
Kanhana Area,
PO Ghorawari Khurd,
Distt. Chhindwara (MP) ... Management

AWARD

Passed on this 7th day of September, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/295/96-IR (C-II) dated 30-7-97 has referred the following dispute for adjudication by this tribunal :

"Whether the demand of Shri Ramcharan S/o Shri Kanwar Singh, Ex-clipman, Ghorawari Colliery under Kanhana Area of WCL, for reinstating him in service is legal and justified ? If so, to what relief is the workman entitled and from which date ?"

2. After the reference order was received, it was duly registered on 26-8-97 and notices were issued to the parties to file their respective statement of claim.

3. The order sheet dated 16-8-05 of this reference case reveals that the reference proceeded ex parte against workman because on the said date, no one appeared for the workman and also the workman failed to file his statement of claim.

4. The management filed their Written Statement (Statement of claim). The case of the management in brief is as follows. That workman Shri Ramacharan was working as clipman in Ghorawari Colliery of Western Coal Fields Ltd. Kanhana area. He was appointed w.e.f. 1-1-1973. He was irregular in services. He was a habitual absentee. As per service record, the workman had studied upto class-IV. The workman had voluntarily tendered his resignation from

service due to his personal reasons. He was a member of RKKMS (INTUC) Union at Ghorawari Colliery. The President of the union also witnessed the said application for resignation. On receipt of the said resignation, the Manager, Ghorawari Colliery accepted the same w.e.f. 12-9-94. The acceptance of the resignation was communicated to him vide office order No. 842/94 dated 6-9-94. The said office order was served on the workman through peon book. The acknowledgement receipt of the said letter given by the workman through peon book. On acceptance of the said resignation, the full and final statement of account were prepared by the Accounts department of the management. The workman was paid an amount of Rs. 42,959.40 vide cheque No. 968771 on account of gratuity. The workman was also paid Provident Fund by the office of the Regional Commissioner Coal Mines Provident Fund. Once the resignation is accepted, contract of employment comes to an end and relationship of master and servant stands snapped. The workman is not entitled to any relief whatsoever.

5. In order to prove their case, the management filed affidavit of their witness Shri Indrajit Singh, the then working as Personnel Manager, Ghorawari Colliery, Kanhana Area.

6. The management also filed certain photostat copies of the documents on record but those copies have not been proved in accordance with law of evidence and therefore they cannot be read in evidence.

7. I have heard Shri A.K. Shashi, Advocate the learned counsel for the management and I have very carefully gone through the evidence on record.

8. As the case proceeded ex parte against the workman, there is no evidence of the workman on record. Against the above, the case of the management is fully established from the uncontroverted and unchallenged affidavit of their witness Shri Inerjit Singh. According to terms of reference as mentioned above, this tribunal is to adjudicate if the demand of workman, ex-clipman, Ghorawari Colliery under Kanhana Area of WCL, for reinstating him in service is legal and justified. The burden of proof that the demand is legal and justified should have been discharged by the workman. But no statement of claim and no evidence has been filed by the workman for discharging the above burden. And the case of the management is fully established, therefore the reference is liable to be answered in favour of the management and against the workman. Having considered the facts and circumstances of the case, I am of the opinion that the parties should be directed to bear their costs of this reference.

9. In view of the above, the reference is decided in favour of the management and against the workman holding that the demand of Shri Ramacharan S/o Shri Kanwar Singh, Ex-clipman, Ghorawari Colliery under Kanhana Area of WCL

for reinstating him in service is not legal and justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

10. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4036.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 33/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/219/1995-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 19th September, 2006

S.O. 4036.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 19-9-2006.

[No. L-22012/219/1995-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/33/96

Shri C.M. Singh, Presiding Officer

The Secretary,

Koyla Mazdoor Sabha (UTUC),

Lusai Camp, Post Kotma,

Distt. Shahdol (MP)-484334. ... Workman/Union

Versus

The Sub Area Manager,

Jhagrakhand Area of SECL,

Post West Jhagrakhand Colliery,

Distt. Surguja-497447 ... Management

AWARD

Passed on this 7th day of September, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/219/95-IR (C-II) dated 30-1-96

has referred the following dispute for adjudication by this tribunal :

“Whether the action of the Suptd. of Mines/Manager, B-Seam Colliery of Jhagrakhand RO of SECL, in terminating Shri Ram Khelawan S/o Mittu, Loader from Company's services is legal and justified ? If not what relief the workman is entitled to ?”

2. The case of workman Shri Ram Khelawan in brief is as follows. The workman Ramkhelawan had been working as a loader in the permanent nature of job against permanent vacancy in Sub Area Jhagrakhand area of SECL at West Jhagrakhand Colliery, Distt. Surguja (MP) since a long time with unblemished record of service. A chargesheet was issued to him by the management vide letter No. BSM/C.S./88/2050 dated 21-12-88 on the basis of previous record of service for absenteeism. The workman replied the aforesaid chargesheet and demanded resumption of duty but the management did not resume his duty. The Suptd. of Mines Manager had struck off his name from colliery roll w.e.f. 16-1-90 without any domestic enquiry. No termination order was issued by the management to the workman. Therefore the action of the management in terminating him from service of company is illegal and unjustified. It is prayed that the workman be reinstated in service with all consequential benefits.

3. The management in order to contest the reference case filed their Written Statement. Their case in brief is as follows. The workman was appointed as casual/badli loader on 27-4-84. He was not working as a permanent loader. He was irregular and a habitual absentee without prior approval of the competent authority of the management. The management therefore issued a chargesheet dated 21-12-88 to him for absents himself from duty w.e.f. 2-6-88. The workman no doubt replied to the said chargesheet and the management after issuing a warning letter allowed him to resume duty. Even after resuming duty on 23-12-88, the workman again resorted to habitual long absenteeism, as a result thereof the management struck off his name from the rolls w.e.f. 16-1-90 in compliance of the certified model standing order, provision 17(i). The workman did not prefer any appeal. The workman was given a number of opportunities to improve himself but he did not come up. The action of the management of striking off his name, being a temporary worker is fully justified and legal. Consequently the workman is not entitled to any relief.

4. The order sheet dated 13-5-05 of this reference proceeding reveals that it was the date fixed for the evidence of the workman, but no-one responded for the workman and no evidence was adduced on his behalf. Therefore it was ordered that the case shall proceed ex parte against the workman and thus the workman failed to adduce any evidence.

5. The management in support of their case filed affidavit of their witness Shri Ashok Kumar Dubey, the

then working as Colliery Manager in B-Seam colliery, SECL Hasdeo Area of Korea (Chhattisgarh).

6. The management has also filed certain photostat copies of the documents but those copies have not been proved in accordance with the law of evidence and therefore those copies cannot be read in evidence.

7. I have heard Shri A.K. Shashi, Advocate the learned counsel for the management. I have very carefully gone through the evidence on record.

8. As mentioned above, there is no evidence of workman for proving his case whereas the case of the management is fully established and proved by the uncontroverted affidavit of their witness Shri Ashok Kumar Dubey, the Colliery Manager.

9. Under the above circumstances, the reference is liable to be answered in favour of the management and against the workman. But having considered the facts and circumstances of case, I am of the view that the parties should be directed to bear their own costs of this reference.

10. In view of the above, the reference is decided in favour of the management and against the workman holding that the action of Suptd. of Mines/Manager, B-Seam colliery of Jhagrakhand R/o of SECL in terminating Shri Ram Khelawan S/o Mittu, loader from Company's Services is legal and justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

11. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4037.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 149/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/303/1995-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 19th September, 2006

S.O. 4037.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 149/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 19-9-2006.

[No. L-22012/303/1995-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/149/96

Shri C.M. Singh, Presiding Officer

The Secretary,

CEC, NCWF,

Distt. Shahdol (MP)

... Workman/Union

Versus

The General Manager,

Johilla Area of SECL,

Post Nowrozabad,

Distt. Shahdol (MP).

... Management

AWARD

Passed on this 7th day of September, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/303/95-IR (C-II) dated 18-7-96 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of SECL, Johilla Area, Nowrozabad colliery, PO Nowrozabad, Distt. Shahdol, MP is justified in not protecting the pay of Shri Moolprasad S/o Shri Matadin who was promoted as mining sirdar from piece rated miner vide your order dated 7-6-90. If not, what relief the workman concerned is entitled to?”

2. After the reference order was received, it was duly registered on 23-7-96 and notices were issued to the parties to file their respective statement of claim. The order dated 1-8-05 on record of this reference reveals that inspite of sufficient service of notice on workman/Union, no one put in appearance for workman/Union and therefore the reference proceeded ex parte against the workman/Union.

3. The management filed their statement of claim. Their case in brief is as follows. Coal India Limited has been formed by the Govt. of India for the purpose of production and supply of coal in India. The Coal Mines India were owned by private persons prior to its nationalisation by way of Coal Mines (Nationalisation) Act, 1973. For the purpose of administrative convenience and effective functioning several subsidiary company have been formed, such as SECL, WCL, NCL, ECL, BCCL, CMPDIL etc., Johilla Area is one of the area of SECL company having its registered office at Bilaspur. Terms and conditions are governed by National Coal Wage Agreement (NCWA). The NCWA contain job nomenclature, cadre scheme, promotion policy etc. Mining Supervisory employees are covered under the Cadre Scheme formulated for mining supervisory employees. The cadre scheme for

mining supervisory employees starts from T & S Gr. "C". They are selected depending upon the statutory certificates obtained by them such as competency certificate, Gas Testing Certificate and valid First Aid Certificate issued by the DGMS. The cadre scheme as circulated vide Implementation Instruction No. 33 vide letter No. JBCCI/IR/94/IMP/697 dated 22-6-80 by which the following qualifications and experience to be possessed by the Departmental candidates for consideration for promotion/selection to the post.

- (a) Must be literate.
- (b) Must have more than 5 years experience of working in a mine.
- (c) Promotion through DPC on unit basis on the basis of sanctioned vacancy.

As per cadre scheme referred to above, the employees having following certificates shall be eligible for consideration for selection to the Mining Supervisory Cadre.

- (i) Mining Sirdar Certificate of Competency issued by Director General of Mines Safety.
- (ii) Gas Testing Certificate
- (iii) Valid First Aid Certificate

There is no cadre scheme available for promotion for piece rated employees to the Mining Supervisory Cadre. Mining Sirdar-cum-Shot firer post is the entry post in the said Cadre. Unless and until the employee enters into the beginning post his further promotion as per the said cadre scheme is not possible. The management of SECL vide Circular No. 1410 dated 21-9-89 circulated the delegation of powers of Chief General Manager/General Manager of the company. There is a statutory requirement of Mining Sirdar as per the Mines Act, Mines Rules and Mines Regulations. Director General of Mines Safety is an independent body of Government of India who is responsible for inspection of safety of Mining operation in India. The said body is an autonomous body having all powers to check the safety measures being undertaken by several Mines Division operation in the nation. The said body conducts several examination for the selection to various statutory posts required under various mines legislation. It is the said body who conducts the valid First Aid Certificate of Competency Examination, Gas Testing Certificate, Valid First Aid Certificate etc. The employees eligible to appear in the said examination apply to the DGMS. The said authority conducts the examination. Successful candidates are issued with those certificates. The management invite applications from eligible candidates including the Departmental candidates and when the vacancy arose for the said statutory posts such as Mining Sirdar, Shot firer etc. The departmental candidates who desire for selection to the statutory post apply with the management. There is a

selection committee, called Departmental Promotion Committee, who conducts the selection process. Successful candidates including the departmental candidates are given offer of selection to the said post. There is no compulsion on the part of the departmental candidates that the departmental candidates who has been selected to the statutory post and joined their duties. It is the discretion of the employees that they may apply for the selection test and if succeeded they may join in the new assignment. Persons who are selected for the post, their pay is fixed as per the pay scale provided under the said cadre scheme. The Departmental candidates accept the selection post for their career growth. Unless and until they enter into a particular cadre scheme with the initial post, there cannot be any further promotion. For their career growth, the departmental candidates assume their new assignment and get their career growth by way of promotion in accordance with the said cadre scheme. When the departmental candidates were selected to the statutory post, the question of their pay fixation arose. Sometimes they may be getting less wages at their existing post when they are selected to the statutory post of mining Sirdar. Under these circumstances, the question as to whether they should be given pay protection while their selection is being made in the different cadre for the purpose of their career growth came into consideration. Discussions were held with the Unions. In this regard, the management vide office order dated 28-6-89 held :

"In order to remove analogous situation, as stated above, it has been decided that henceforth the Piece rated/Time rated workers, who obtains statutory certificates like Mining Sirdar/Shot firer on their selection in higher grade, they should be placed in initial of the scale and such employees will not be entitled for any wage protected of their old group time rated wages. In case such employees have any objection, they may be reverted back to their original post, instead of allowing them any protection of their wages in the promoted/selected post. This supercedes all other circulars issued earlier on this subject."

The said dispute was again taken up for discussion in the company level meeting held with the union and the management on 27-7-94. The dispute was discussed in details and the conclusion arrived at is as follows :

"Pay Protection to Mining Sirdars. Association representatives demanded that pay protection should be given to mining sirdars who have been converted from PR & DR.

Management expressed that wage protection will be given in case they have been deployed by the management i.e. in regularisation cases, but in case they have opted/selected against the advertisement, no pay protection will be given to them."

Again the Company vide circular No. 358 dated 17-2-95 held the following in this respect :

"2. The SPRA paid to such employee till they worked in PR job prior to their conversion will be taken into consideration at the time of fixation in time rated and the same will be treated as basic (i.e. group wages and SPRA). However in such of the conversion cases prior to 1-1-94, where the workmen were not placed in category/scale, the SPRA applicable to the individual at the time of their conversion shall be taken into account for the purpose of fixation of basic payment, but shall not apply to such cases where the workmen have opted for conversion."

"3. In case of those piece rated workers who had applied or have been converted into time rated against selection/voluntary option, the pay protection of their group wages of SPRA will not be taken into account."

Again there was a meeting of the Company level with the Union INMOSSA held on 13-11-95 for discussion of various matters including the pay protection of Mining Sirdar. In the said meeting also the findings given on the said subject is reproduced below :

"Pay Protection to Mining Sirdars. Association representatives demanded for giving pay protection to workmen who come to the post of Mining Sirdar.

In this regard, the management reiterated that pay protection will be given only in case they have been deployed by management i.e. in case of regularisation, but in case a workman opted for the post of Mining Sirdar against any advertisement/notification, no pay protection will be given to the workmen."

The Secretary RKKMS (INTUC) one of the recognised Union functioning in the coal industry raised an Industrial dispute in connection with the pay protection of Mining Sirdar. The matter was referred to the Government of India. The Government of India vide order dated 9-1-92 opined that :

"Since it is not a case of promotion as there is no cadre scheme for giving the workmen promotion from piece rate to Mining Sirdars, the Central Government have decided not to refer the dispute for adjudication."

The applicant/workman Shri Mool Prasad was working as miner prior to his selection/appointment to the post of Mining Sirdar-cum-Shotfirer. He was appointed to the post of Mining Sirdar-cum-Shotfirer w.e.f. 2-6-90 on the initial scale of pay of the said post and he had accepted the same also. Prior to his appointment to the post of mining Sirdar-cum-Shotfirer, he was working as miner. As the selection of workman was in different cadre for which he had voluntarily agreed to, no pay protection is payable.

There is no promotional channel in the mining cadre. Salary of miner is based on the work done by him. The pay of miner may vary day to day and miner to miner and therefore he cannot claim any fix amount as salary of miner also. The Sub Area Manager has no powers to give pay protection to any employee. Only General Manager is empowered to give pay protection to any employee. Therefore the pay protection if given by Sub Area Manager in the year 1997, that was not competent to award the pay protection and is liable to be withdrawn. The workman concerned on obtaining requisite certificates applied to the management for selection against vacancy in Mining Supervisory Cadre and their cases are considered by the Selection Committee based on the guidelines circulated vide Implementation Instruction No. 34 subject to availability of vacancy. Since his absorption in Mining Supervisory Cadre amounts to change of cadre on the request of the employees and no cadre scheme for P.R. employees is available, the question of protection of pay does not arise and therefore the dispute of pay protection raised by the Union for the workman is liable to be rejected.

4. The management in order to prove their case filed affidavit of their witness Shri S.K. Gupta, the then posted as Dy. Personnel Manager of Johilla Area, SECL.

5. I have heard Shri A.K. Shashi, Advocate, the learned counsel for the management. I have very carefully gone through the evidence on record.

6. As the case proceeded ex parte against the workman/Union and no statement of claim filed on behalf of workman/Union, there is no evidence of workman/Union on record for proving his case. The case of the management is fully established from the uncontroverted and unchallenged affidavit of their witness Shri S.K. Gupta, the then posted as Dy. Personnel Manager of Johilla Area, SECL. The reference, therefore, deserves to be answered in favour of the management and against the workman/Union. Having considered the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

7. In view of the above, the reference is answered in favour of management and against the workman/Union holding that the action of management of SECL, Johilla Area, Nowrozabad Colliery, PO Nowrozabad, Dist. Shahdol, MP is justified in not protecting the pay of Shri Moolprasad S/o Shri Matadin who was promoted as mining Sirdar from piece rated miner vide your order dated 7-6-90 and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

8. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4038.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 103/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/356/2000-आई आर (सी-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 19th September, 2006

S.O. 4038.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NCL and their workman, which was received by the Central Government on 19-9-2006.

[No. L-22012/356/2000-IR (C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/103/2001

Shri C.M. Singh, Presiding Officer

The Sr. Vice President,
Rashtriya Colliery Workers Federation,
P.O. Singrauli,
Distt. Sidhi (M.P.) ... Workman/Union

Versus

The Chief General Manager,
Singrauli Area of N.C.L.,
P.O. Singrauli,
Distt. Sidhi (MP) ... Management

AWARD

Passed on this 8th day of September, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/356/2000-IR (C-II) dated 28-5-2000 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the Chief General Manager, Singrauli Area of the Northern Coal-fields Limited in not regularising Shri Vinod Kumar in clerical Grade with pay protection is legal and justified ? If not what relief the workman is entitled to ?”

2. After the reference order was received, it was duly registered on 19-6-01 and notices were issued to the parties to file their respective statement of claim. In response to the notice, the workman/Union filed statement of claim.

3. The case of the workman/Union in brief is as follows. That the management of Gorbi Project, NCL Singrauli had deployed Shri Vinod Kumar Driver (Cat-V), in general office to work as a clerk, taking into account his educational qualification of MA (Sociology) and diploma in Personnel Management and Industrial Relation vide letter No. GRB/GM/93/923 dated 30-6-93 and he had been working on clerical job upto June 30th 1997 in the said project. On 30-11-96, Shri Vinod Kumar was directed by the Staff Officer (Personnel) vide letter No. Gorbi/B/PD/96/1034 dated 30-11-96 to apply for regularisation on the post of clerk, so that the further action may be taken, on which he reciprocated. In between the workman was transferred to NCL, Hqr. Singrauli in the same capacity (clerk) following closure of Gorbi-B Project vide letter No. NCL/SGR/PD/M.P./4.00/97/110 dated 24-6-97. Subsequently he was posted in Administrative Department, Singrauli vide letter No. SGR/PD/MP-4.00/97/206 dt. 1-7-97. The trouble began when the workman insisted for his regularisation in suitable grade and pay scale in clerical cadre with pay protection. Instead of regularising him, he was asked to appear before a DPC by the GM (P&C) Singrauli for written test/interview for the selection for post of clerk Grade-III, with the pre-condition to accept the initial pay of clerk Grade-III of Rs. 1826 basic in writing, vide letter No. NCL/SGR/PD/98/1397 dated 3-4-98 thereby forcing him, for reduction of Rs. 1174 P.M. in the basic pay at that time. Due to this reason the workman did not appear in the said interview. Since the workman's deployment in clerical grade, it has put to him in heavy financial losses and deprived him in selection in HEMM (Heavy Earth Moving Machinery) operator and subsequent promotion, in the said cadre as well as in status, because the same (operators) are selected amongst the qualified drivers, with educational qualification of matriculation. It is, therefore prayed that the workman be regularised in clerical grade with pay protection.

4. The management in order to contest the case filed their Written Statement. Their case in brief is as follows. That workman Shri Vinod Kumar was initially appointed as Driver (T) category-II on 2-5-91 in Gorbi project of NCL. Consequently he was regularised as Driver Category-V on completion of 1 year training period w.e.f. 2-5-92. He was further promoted as Driver-cum-Mechanic Category-VI w.e.f. 3-1-02. The workman is at present working as Driver-cum-Mechanic at NCL HQR Singrauli. While the workman was working as Driver Category-V at Gorbi project, he was transferred from that section to general office of the same project. The workman was temporarily allowed to work as clerk w.e.f. 30-6-93 due to some exigency of work. The workman was subsequently transferred to NCL Hqr. Singrauli w.e.f. 1-7-97, where he has been working as driver

category-V. While he was working in NCL Hqrs, he was given promotion to the post of driver-cum-mechanic category-VI. The claim of the workman for regularisation to the post of clerk is not maintainable on the ground that he was initially appointed as driver. He is covered under the Cadre Scheme formulated for the drivers. That the workman has availed the benefits such as promotion from time to time under the said cadre scheme without any objection whatsoever. Having availed all the benefits under the said scheme, he cannot claim regularisation in clerk Grade-I with pay protection. The workman cannot claim wages of driver while working as clerk. The cadre of drivers as well as cadre of clerks are different. Selection/regularisation of clerk is done following certain criteria by a committee duly constituted for the purpose. The committee conducted written test/interview of the incumbents and submitted their recommendations before the competent authority. On the basis of recommendations of the selection committee, order of selection/regularisation is issued in initial pay scale of clerk Gr. III as per the requirement/vacancies available. The workman was asked to appear in the written test/interview for selection to the post of clerk Gr. III vide letter No. 1397 dated 4-9-98, but he did not appear before the Departmental Selection Committee. The demand of workman to regularise him in clerical Gr. I with pay protection with retrospective effect is misconceived, frivolous and baseless. The workman is a young and energetic person, he can earn more by physical labour in his present cadre in comparison to clerical cadre. Career growth is also faster in the HEMM cadre than the clerical cadre. If pay protection as claimed by the workman is granted, this will not only violate the law of "equal remuneration for equal work" but it may give rise to other similarly situated employees to raise industrial dispute which would cause great industrial unrest as well as national loss. Consequently the workman is not entitled to any relief.

5. The order sheet of this reference proceeding reveals that on 30-7-04, the date fixed in the case, both the parties absented themselves. Likewise on the next date i.e. on 21-10-04 both the parties remained absent. On 22-11-04, the date fixed in the reference, the workman/Union remained absent. On this day, Shri A.K. Shashi, Advocate, the learned counsel for the management and Shri A. L. Verma, Sr. Law Officer came present for the management. On this date, it was ordered that the notice be issued to the workman/Union by registered AD post. The order dated 14-2-05 on the ordersheet of this proceeding reveals that in spite of sufficient service of notice on the workman/Union, none appeared on their behalf. However one more opportunity was granted to the workman/Union for giving papers to the management as detailed in order dated 30-4-03. Ultimately on 25-7-05, it was ordered that the reference shall proceed ex parte against the workman.

6. Thus the workman/Union failed to adduce any evidence. The management for defending the reference

case filed affidavit of thier witness Shri Nandlal, the then working as Personnel Manager in Gorbh Project. The management also filed certain photostat copies of documents. But those certified copies of the documents have not been proved in accordance with the law of evidence and therefore they cannot be read in evidence.

7. I have heard Shri A.K. Shashi, the learned counsel for the management. I have very carefully gone through the evidence on record.

8. The burden of proof that the action of the Chief General Manager, Singrauli Area, NCL in not regularising Shri Vinod Kumar in clerical cadre with pay protection is illegal and unjustified is on the workman/Union. Since no evidence has been adduced on behalf of workman/Union, thus they have failed to discharge the said burden.

9. Against the above, the case of the management is fully established from the uncontroverted and unchallenged affidavit of management's witness Shri Nandlal. Therefore the reference deserves to be answered in favour of the management and against the workman. Having considered the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

10. In view of the above, the reference is answered in favour of the management and against the workman holding that the action of the Chief General Manager, Singrauli Area of the Northern Coal-fields Limited in not regularising Shri Vinod Kumar in clerical Grade with pay protection is legal and justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

11. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4039.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 234/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/141/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4039.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 234/2000) of the Central Government Industrial Tribunal-cum-

Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 19-9-2006.

[No. L-12011/141/2000-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT

Shri A.N. Yadav, Presiding Officer

Case No. 234/2000

Date : 14-7-2006

Bank of Maharashtra

Versus

Union of Maharashtra Bank Employees

AWARD

The Central Government after satisfying the existence of disputes between P.S. Borkar, Party No. 2 and The Asstt. General Manager, Bank of Maharashtra, Party No. 1 referred the same for adjudication to this Tribunal by clause (d) of sub-section (1) and sub-section 2(A) of the Section 10 of the Industrial Disputes Act, 1947 with the following schedule :

"Whether the action of the management of Bank of Maharashtra represented through the Chief Manager, Bank of Maharashtra, Sitabuldi, Nagpur in awarding the punishment "dismissal without notice" from the Bank's service to Shri Prakash Sonbaji Borkar, Ex-PTS, Ayodhya Nagar Branch, Nagpur w.e.f. 4-8-1998 is legal, proper and justified ? If not, what relief the said workman is entitled to and from what date ?"

In response to the notice the Party No. 2 i.e. Union on behalf of the applicant Prakash S. Borkar appeared and filed their Statement of Claim on 13-12-2000. It seems that the workman is claiming that the management after issuing the charge sheet dismissed him from the service w.e.f. 4-8-1998 on the false charges. The enquiry was formal and without following the procedure and giving opportunity to him, he was dismissed illegally. He challenged the dismissal. Similarly the Party No. 1, management also appeared and filed their Written Statement on 10-5-2001 denying his allegations and the case was fixed for the Rejoinder if any on behalf of the applicant. However from 17-1-2001 the workman did not appear before the Court nor did he file the Rejoinder. Again the case was preceded and it was fixed for evidence on behalf of Party No. 2. Despite it the Party No. 2, the workman did not attend the Court till today. It

indicates that he is not interested in prosecuting the case. Even the representative of the union did not appear from the date indicated above. Today on 14-7-2006 the case was fixed for the evidence of the applicant in respect of preliminary issue about validity of enquiry. Today also he is absent and did not adduce any evidence and did not make any submissions, hence the case is disposed of for the default of Party No. 2, applicant. Therefore the case is closed and disposed of with the findings that now there are no disputes. Hence this no disputes Award.

Date : 14-7-2006

A.N. YADAV, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4040.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नागपुर के पंचाट (संदर्भ संख्या 39/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12012/122/87-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4040.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 39/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 19-09-2006.

[No. L-12012/122/87-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT

Shri A. N. Yadav, Presiding Officer

Case No. 39/2003

Date 20-07-2006

PARTIES:

The Regional Manager, Bank of Maharashtra

Versus

Deputy General Secretary, Union of Maharashtra Bank Employees, Congress Nagar, Nagpur.

AWARD

The Central Government after satisfying the existence of disputes between the Union, Party No. 2 and The Regional Manager, Bank of Maharashtra, Party No. 1 referred the same for adjudication to this Tribunal under clause (d) of sub-section (1) and sub-section 2(A) of the Section 10 of the Industrial Disputes Act, 1947 with the following schedule.

“Whether the action of the management of Bank of Maharashtra in terminating the services of Shri Ashok P. Dewhare w.e.f. 07-09-1985 was justified? If not, to what relief the workman is entitled?”

Initially the dispute was referred to the C.G.I.T., Jabalpur where it was registered as Case No. 236 of 1987 however consequent upon the establishment of C.G.I.T., Nagpur as it was pertaining to Nagpur Region was transferred to this Tribunal. The Party No. 2 by filing his Statement of claim contended that the workman should be reinstated with a full back wages benefit of seniority, increment as per Bipartite Settlement. The claim was resisted by the management by filing its Written Statement. After transfer no body appear before this Court for considerable long time however finally the Management and the Union settled the matter amicably. The Chief Manager as well as Union have filed the separate pursises informing the Tribunal that a very old dispute was involved in this case and in the passage its time, it has lost its importance as well as relevance. Practically it has become infructuous and the Union does not want to proceed with the case. It has requested to dispose of the claim, I have heard both the parties. They both are requesting that they lost the importance of the claim and therefore it should be disposed of without awarding any cost.

The above dispute has come for enquiry today. I have perused the pursises as well as the papers of the dispute. It seems that it will not be proper to continue the same dispute particularly when it has become infructuous. Therefore I allow their prayer and pass “No dispute Award”. Hence this Award passed on 20th July, 2006.

A.N. YADAV, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4041.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 40/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12012/569/87-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4041.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 40/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 19-09-2006.

[No. L-12012/569/87-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
NAGPUR**

PRESENT:

Shri A. N. Yadav, Presiding Officer

Case No. 40/2003

Date 20-07-2006

PARTIES:

The Asstt. General Manager, Bank of Maharashtra,
Nagpur

Versus

The Deputy General Secretary, Union Bank of
Maharashtra Employees.

AWARD

The Central Government after satisfying the existence of disputes between the Union, Party No. 2 and The Asstt. General Manager, Bank of Maharashtra, Nagpur Region, Party No. 1 referred the same for adjudication to this Tribunal under clause (d) of sub-section (1) and sub-section 2(A) of the Section 10 of the Industrial Disputes Act, 1947 with the following schedule.

“Whether the action of the management of Bank of Maharashtra in placing Shri G.A. Kulsange, sub-staff, at seniority No. 4, at their Sadar Bazar Branch, Nagpur, and denying him cash peon's allowance is justified? If not, to what relief is the workman entitled?”

Initially the dispute was referred to the C.G.I.T., Jabalpur where it was registered as Case No. 43 of 1988 however consequent upon the establishment of C.G.I.T., Nagpur as it was pertaining to Nagpur Region was transferred to this Tribunal. The Party No. 2 by filing his Statement of claim contended that the workman should be placed in seniority No. 4 at their Sadar Bazar Branch, Nagpur and he be paid a peon's allowance. The claim was resisted by the management by filing its Written Statement. After transfer no body appear before this Court for considerable long time however finally the Management and the Union settled the matter amicably. The Chief Manager as well as

Union have filed the separate pursises informing the Tribunal that a very old dispute was involved in this case and in the passage its time, it has lost its importance as well as relevance. Practically it has become infructuous and the workmen does not want to proceed with the case. It has requested to dispose of the claim, I have heard both the parties. They both are requesting that they lost the importance of the claim and therefore it should be disposed of without awarding any cost.

The above dispute has come for enquiry today. I have perused the pursises as well as the papers of the dispute. It seems that it will not be a proper to continue the same dispute particularly when it has become infructuous. Therefore I allow their prayer and pass "No dispute Award". Hence this Award passed on 20th July, 2006.

A.N. YADAV, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4042.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 72/2002) का प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12012/393/94-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4042.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 72/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 19-09-2006.

[No. L-12012/393/94-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
NAGPUR**

PRESENT:

Shri A. N. Yadav, Presiding Officer

Case No. 72/2003

Date 20-07-2006

PARTIES:

The Regional Manager, Bank of Maharashtra,
Chandrapur.

Versus

Shri Chandrashekhar W. Paturkar.

AWARD

The Central Government after satisfying the existence of disputes between the workman Shri Chandrashekhar W. Paturkar, Party No. 2 and The Regional Manager, Bank of Maharashtra, Chandrapur Region, Party No. 1 referred the same for adjudication to this Tribunal under clause (d) of sub-section (1) and sub-section 2(A) of the Section 10 of the Industrial Disputes Act, 1947 with the following schedule.

"Whether the action of the management of Bank of Maharashtra in terminating the services of Shri Chandrashekhar W. Paturkar and thereafter not considering his name for permanent absorption in terms of approach paper circulated by the Ministry of Finance in 1990 is legal and justified? If not, to what relief the said workman is entitled?"

Initially the dispute was referred to the C.G.I.T., Jabalpur where it was registered as Case No. 38 of 1998 however consequent upon the establishment of C.G.I.T., Nagpur as it was pertaining to Nagpur Region was transferred to this Tribunal. The Party No. 2 by filing his Statement of claim contended that the workman should be reinstated. Similarly it be declared in not considering his claim for permanent absorption was illegal and unjustified, he should be given full back wages. The claim was resisted by the management by filing its Written Statement. After transfer no body appear before this Court for considerable long time however finally the Management and the worker settled the matter amicably. The Chief Manager as well as the petitioner and his counsel have filed the separate pursises informing the Tribunal that a very old dispute was involved in this case and in the passage its time, it has lost its importance as well as relevance. Practically it has become infructuous and the workman does not want to proceed with the case. It has requested to dispose of the claim, I have heard both the parties. They both are requesting that they lost the importance of the claim and therefore it should be disposed of without awarding any cost.

The above dispute has come for enquiry today. I have perused the pursises as well as the papers of the dispute. It seems that it will not be proper to continue the same dispute particularly when it has become infructuous. Therefore I allow their prayer and pass "No dispute Award". Hence this Award passed on 20th July, 2006.

A.N. YADAV, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4043.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 5/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12012/201/2004-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 5/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workman, which was received by the Central Government on 19-09-2006.

[No. L-12012/201/2004-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

SHRI T. RAMACHANDRA REDDY, Presiding Officer

Dated, the 12th day of September, 2006

Industrial Dispute No. 5/2005

BETWEEN

Sri P. Renu Rao,
H. No. 12/68, SN Peta,
Guntakal-515801.Petitioner

AND

The Dy. General Manager,
Vijaya Bank, Regional Office,
Hyderabad.Respondent

APPEARANCES

For the Petitioner : Sri P. Prabhakara Rao,
Advocate

For the Respondent : M/s. E. Ajay Reddy,
N.V. Ramana Rao,
Y. Arjun Rao, K.R.K. Chary &
B. Venkat Reddy, Advocates.

AWARD

This is a reference made by the Government of India, Ministry of Labour by its order No. L-12012/201/2004-IR (B.II) dated 10-1-2005 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the I.D. Act, 1947 for adjudication of the dispute between the Management of Vijaya Bank and its workman Sri P. Renu Rao with the following schedule:

SCHEDULE

“Whether it is a fact that Sri P. Renu Rao was engaged as a Temporary Sub-staff during the period from October, 83 to 2000 by the Management of Vijaya Bank? If so, whether the action of the Management of Vijaya Bank in not providing regular employment to Sri P. Renu Rao, Temporary Peon, Guntakal branch and terminating his services is legal and justified? If not, to what relief the workman is entitled to?”

This reference was registered as Industrial Dispute No. 5/2005 and notices were issued to the parties.

2. This is a dispute between the workman Smt. P. Renu Rao and the Dy. General Manager, Vijaya Bank, Regional Office, Hyderabad. The Petitioner filed claim statement stating that he belongs to Scheduled Caste and appointed as a temporary peon in the scheduled caste quota on 5-10-1983 at Guntakal Vijaya Bank. Since then he is working to the satisfaction of his superiors. It is further submitted that the Respondent bank issued a circular No. 166/88 advising the branch offices to obtain applications from temporary employees who worked for 90 days and more from 1-1-1983 to 30-6-1988. The Petitioner submitted an application as he worked for more than 90 days and his application was sent to the regional office. It is further submitted that Divisional Manager sent a letter to the Petitioner dated 16-1-1989 directing him to appear for an interview on 31-1-1989 with all relevant certificates for absorption in the bank as a peon as per the said circular. Accordingly, he appeared for the interview and worked as usual as a temporary peon at Guntakal branch upto 31-5-2003. But the Branch Manager orally terminated his services. The oral order of the Branch Manager is illegal, arbitrary and void, contrary to Section 25F and also 2(00) of Industrial Disputes Act, 1947.

3. It is further submitted that he worked for 21 years as a temporary peon and his services were terminated or retrenched from 1-6-2003. It is further submitted that he worked for 21 years as a temporary peon and his services were terminated or retrenched from 1-6-2003.

4. He preferred an appeal dated 15-10-2004 to the Assistant General Manager at Hyderabad. But the same was neither considered nor issued any orders. As such the Petitioner approached his union and raised the dispute before the Assistant Labour Commissioner (C) who held the conciliation proceedings and sent a report to the Government of India.

5. The Respondent advocate took several adjournments for filing counter and documents but ultimately did not file the same in spite of granting time and ultimately set ex parte.

6. The Petitioner filed his affidavit in support of his case and got marked the following documents. Bx. W1 is

the bank's circular No. 166/88 dated 19-8-88. Ex. W2 is letter dated 9-9-88 issued by Branch Manager, Guntakal branch with particulars. Ex. W3 is interview letter issued by Divisional Manager of Respondent bank dated 16-1-89. Ex. W4 is caste certificate dated 28-11-94 issued by MRO, Guntakal. Ex. W5 is letter of Respondent inviting applications dated 31-12-89.

7. Ex. W1 is a circular which discloses that it was issued for the absorption of temporary peons under the settlement with the recognized union. It was issued to provide an opportunity to temporary peons in the bank who worked for a period of 90 days or more. It provides for preparation of list of empanelled candidates against temporary vacancies and they will be absorbed as and when vacancies arise as a one time measure. Ex. W2, W2A and W2B are the letters issued by the branch Manager showing that the Petitioner has worked for more than 90 days and eligible for absorption as per the circular. In view of the said letters the Petitioner was given the interview call as in Ex. W3. It is contended that the name of the Petitioner was empanelled in the list but he was not absorbed. The documents filed by the Petitioner shows that he worked for more than 90 days and eligible for empanelment of temporary peons list and future absorption in the Respondent bank.

8. It should be noted that the Petitioner also belongs to Scheduled Caste and filed certificate Ex. W4. In view of the evidence, I hold that the workman Sri P. Renu Rao was engaged as temporary sub-staff during the period from October, 1983 to 2000 by the Respondent Management bank and the action of the Management of Vijaya Bank in not providing regular employment to him is illegal and not justified.

9. Therefore, the award is passed accordingly holding that the action of Respondent Management in disengaging the services of the Petitioner Sri P. Renu Rao is illegal and the Respondent is directed to absorb the Petitioner within three months from the date of publication of this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowari, Personal Assistant, transcribed by her and corrected by me on this the 12th day of September, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
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WW1 : Sri P. Renu Rao	NIL
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Documents marked for the Petitioner

Ex. W1 :	Copy of Bank's circular No. 166/88, dt. 19-8-88
Ex. W2 :	Copy of lr. from Branch Manager, Guntakal, dt. 9-9-88.
Ex. W2A :	Copy of lr. from Branch Manager, Guntakal, dt. 18-7-91.
Ex. W2B :	Copy of lr. from Branch Manager, Guntakal, dt. 19-7-91.
Ex. W3 :	Copy of interview call letter to WW1.
Ex. W4 :	Copy of caste certificate dt. 28-11-94.
Ex. W5 :	Copy of lr. of respondent inviting applications dt. 31-12-89.

Documents marked for the Respondent

NIL.

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4044.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 265/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12011/96/2002-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 265/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workmen, which was received by the Central Government on 19-09-2006.

[No. L-12011/96/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd of August, 2006

Industrial Dispute No. 265/2002

BETWEEN

The Regional Secretary,
Vijaya Bank Workers Organization,
IIIrd floor, Swarnalok Complex,
Eluru Road, Vijayawada

.....Petitioner

AND

The Asstt. General Manager,
Vijaya Bank, Regional Office,
1st Floor, 1st lane, Maruthinagar,
Mazjid Street, VijayawadaRespondent

APPEARANCES

For the Petitioner : M/s. G. Vidya Sagar,
K. Udaya Sri, K. Sudheer Rao,
B. Shivakumar and
D. Madhusudhan, Advocates

For the Respondent : M/s. E. Ajay Reddy,
N.V. Ramana Rao,
Y. Arjun Rao, & K. Ravi
Kumar Chary, Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/96/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial disputes Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of Vijaya Bank and their workmen with the following schedule.

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage for a period of one year which will have effect of postponing the future increments upon Sri J.V.H. Prasad ? If not, what relief is the disputant concerned entitled to ?"

2. Sri J.V.H. Prasad is represented by the Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that while the workman was working at Guntur Branch, he was issued with a charge sheet dated 28-7-99 for alleged irregularities and ultimately imposed the punishment as stated in the schedule. The appeal preferred by the workman is also dismissed by order dated 3-5-2001.

3. While the workman was working at Guntur branch, Respondent organization introduced Vijaya Stock Invest Deposit (in short VSID) and the employees are induced to increase the business of deposits under the scheme. On complaints received with regard to the said scheme, the Senior Manager held an enquiry and found that Chief Manager, the then Senior Branch Manager, Assistant Branch Manager are responsible for certain procedural irregularities in not guiding the concerned clerical staff in operating the scheme. However, there was no financial loss to the bank. Subsequently, three clerks were suspended and chargesheets were issued against 27 employees, who worked in Guntur branch during the period from 22-6-1985 to 4-7-1995. It is alleged in the chargesheet that the workman

speculated in stocks/shares by getting issued VSID for self and in the name of his wife and children to gain undue pecuniary benefits and authorized issuance of VSID to staff members and their friends and relatives against VSIDs standing in the name of bank customers and in accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of bank constituting a misconduct under sub-section (i) and (j) of Clause 19.5 of Bipartite Settlement. The workman has filed his explanation denying the charges. But an Enquiry Officer was appointed by the Respondent. During the enquiry 226 documents were marked by examining one witness on behalf of the Management and on behalf of the workman 8 documents were marked. The Enquiry Officer submitted his report holding that charge No. 1 was not proved and charge No. 2 was partly proved. The workman has submitted his explanation against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same, issued a show cause notice proposing to impose punishment of reduction to the lower stage in the time scale by two stages with cumulative effect for a period of two years. The workman has submitted his detailed explanation to the show cause notice. But the Disciplinary Authority confirmed the punishment.

4. It is further submitted that Manager of the bank has not properly instructed the workman with regard to the utilization of the scheme benefits for the employees of the bank and since there was no prohibition in availing the benefits of the VSID scheme by the employees, keeping in view it would increase the business of the bank, the employees and the family members have also operated the VSID scheme. It is further submitted that the Enquiry Officer has chosen to split the charges and the imputation of allegations into several parts violating the principles of natural justice. The findings of the Enquiry Officer as well as the Disciplinary Authority were erroneous and there is no sufficient evidence proving the charges.

5. The Respondent filed the counter and denied the averments made in the claim statement and submitted that while the workman was working in Guntur branch, was issued a chargesheet for speculating in stocks and shares and for deriving undue pecuniary benefits for self by getting VSIs against VSIDs standing in the names of the bank customers and impersonating by affixing the signatures of the customers on VSIs, constituting to gross misconduct under sub-clause (i) and (j) of clause 19.5 of Chapter XIX of Bipartite Settlement, 1996. The workman submitted his written statement of defence dated 23-8-1991 justifying his actions, however, the Disciplinary Authority ordered in enquiry by appointing an Enquiry Officer. During the enquiry 40 documents were marked and one witness was examined on behalf of the Management and on behalf of the workman, 7 documents were marked but no witness was examined. The Enquiry Officer has conducted the enquiry observing the principles of natural

justice and submitted his report holding that charge No. 1 is not proved whereas charge No. 2 is partly proved. The workman has submitted his explanation to the enquiry report before the Disciplinary Authority.

6. It is further submitted that the Disciplinary Authority on considering the enquiry report and material on record including the representation of the workman and the arguments advanced by the workman and the Management accepted the findings of the Enquiry Officer and found that the workman was guilty of second charge which has been held by the Enquiry Officer as partly proved and issued show cause notice with the proposed punishment. The Disciplinary Authority on considering the representation of the workman has confirmed the proposed punishment. The Petitioner workman was unsuccessful in the appeal preferred by him.

7. It is further submitted that the workman got issued VSI 760672 against VSID 727193 of Smt. V. Soumya standing in the name of bank's customer, impersonated by affixing the signature of the customer in violation of the rules governing VSID accounts. The fact that the signature appear in the copy of VSID No. 76072 tallies with that of his signature in the copy of page No. 12 of incumbents register, proves that the workman has issued VSI against VSID of the customer for deriving undue pecuniary benefit to himself. This fact was established during the enquiry. Some other staff members at Guntur branch were also involved in similar acts of misconduct and disciplinary action was taken against them.

8. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

9. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that he chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workman or his relatives, as such, there is no financial loss to the bank.

10. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the

funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering the entire material and the explanation of the workman that the charge No. 2 was entirely proved and further contended that the evidence on record is sufficient to come to the conclusion that the second charge against the workman is established. Further contended that the punishment is in consonance with the gravity of the charge.

11. The chargesheeted workman was charged with the following charges :

“(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross-misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966. (ii) Your action of getting issued VSIs for self, in the names of staff members, their friends and relatives so as to gain/confer pecuniary benefit against VSIDs opened in the names of Bank's customers and in the accounts opened in benami names/facilitating impersonation contrary to rules governing VSID accounts constitute gross-misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966”. On behalf of the Management Sri C. P. Machado, Senior Manager was examined as MW1, during the enquiry and the documents Exs. M1 to M40 were marked. As against this evidence the chargesheeted employee got marked 7 documents and he did not choose to examine any witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in his own name and also signed 14 VSIs out of 32 and it is further observed that even though VSI No. 76072 issued in the name of chargesheeted employee was credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

12. The contention of the Learned Counsel for the Petitioner that no financial loss was occurred to the bank has no substance, since it is irrelevant regarding the working of the Respondent bank. The Enquiry Officer as well as the Disciplinary Authority has considered the material on record and given cogent reasons in respect of their findings. The Disciplinary Authority has found that the second charge was proved, analyzing the evidence and giving reasons. Merely, chargesheeted employee has

not succeeded in his attempt of getting the shares allotted, it cannot be construed that his act is not prejudicial to the interest of the bank. The conduct on the part of the chargesheeted employee in obtaining VSIs against VSIDs of customers and authorizing such transactions to benefit staff members, friends and relatives and thereby attempting to get the shares allotted without investment with the funds belonging to the customers, amounts to misconduct. The evidence on record is sufficient to the Enquiry Officer as well as to the Disciplinary Authority to come to such conclusions that the charge No. 2 was proved against the workman.

13. During the enquiry it is found that the signatures appearing in the copy of VSID No. 76072, tallies with that of his signature in the copy of the page No. 12 of incumbents register shows that workman has issued VSI against VSID of the customer for deriving undue pecuniary benefit.

14. Even though there is no prohibition on the employees of the bank in availing the benefit of VSID scheme but the VSIs can be got issued only against the VSIDs in their accounts. But the workman has got issued VSIs in his name against the VSID standing in the name of the customer, i.e., attempting to get the shares allotted without any investment whatsoever with the funds belonging to the customers and affixing the signature of the customer on VSIs which amounts to misconduct. On considering the material on record, I am satisfied that the evidence relied on by the employer established the misconduct alleged against the workman.

15. The punishment imposed by the Disciplinary Authority which is confirmed by the Appellate Authority, is in consonance with the gravity of charge. I do not see any sufficient ground to interfere with the findings of the Enquiry Officer or with the awarded punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in time scale of pay by one stage for a period of one year which will have effect of postponing the future increments upon Shri J.V.H. Prasad.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined : Witnesses examined for the
for the Petitioner Respondent

NIL

NIL

31/7/06-22

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का.आ. 4045.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ब्रम्हा न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 266/2002) को प्रकृति करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12011/97/2002-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 266/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank, and their workmen, which was received by the Central Government on 19-09-2006.

[No. L-12011/97/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd day of August, 2006

INDUSTRIAL DISPUTE NO. 266/2002

BETWEEN

The Regional Secretary,
Vijaya Bank Workers Organization,
IIIrd floor, Swarnalok Complex,
Eluru Road, Vijayawada.

.....Petitioner

AND

The Asstt. General Manager,
Vijaya Bank, Regional Office,
1st Floor, 1st lane, Maruthinagar,
Mazjid Street, Vijayawada

.....Respondent

APPEARANCES

For the Petitioner	: M/s. G. Vidya Sagar, K. Udaya Sri, K. Sudheer Rao, B. Shivakumar and D. Madhusudhan, Advocates
For the Respondent	: M/s. E. Ajay Reddy, N.V. Ramana Rao, Y. Arjun Rao & K. Ravi Kumar Chary, Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/97/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial disputes Act, 1947 for adjudication to this Tribunal between the employers Vijaya Bank and their workman with the following schedule :

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon Smt. K. S. V.A. Manga ? If not, what relief is the disputant concerned entitled to ?"

2. The workwoman is represented by the Petitioner Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that the workwoman while working at Guntur branch, the Respondent bank has introduced Vijaya Stock Invest Deposit (in short VSID) scheme and induced the workers to increase the deposits under the scheme. An enquiry was conducted on the basis of the complaints received with regard to the said scheme by Senior Manager who held that Chief Manager, the then Senior Branch Manager and Assistant Branch Manager are responsible for certain irregularities in not guiding the concerned staff in operating the said scheme. Thereafter three clerks were suspended and chargesheets were issued against 27 employees who worked at Guntur branch for the irregularities committed under the scheme. The workwoman was issued a chargesheet dated 28-7-99 alleging that she has speculated in shares/stocks and getting issued VSIDs for self and in the name her family members to gain undue pecuniary benefits and authorizing issuance of VSIDs to staff, friends and relatives against the VSIDs standing in the name of bank customers and in accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under sub-section (i) and (j) of clause 19.5 of bi-partite settlement. The concerned workwoman in spite

of submitting the explanation an enquiry was ordered by appointing one Sri Shettigar, Senior Manager. The Enquiry Officer after conducting enquiry held that the charge No. 1 is not proved while the charge No. 2 was partly proved. The workwoman has submitted her representation dated 19-9-2000 against findings of the Enquiry Officer. The Disciplinary Authority without considering the representation, has issued a show cause notice proposing to impose the punishment which was subsequently inflicted. The workwoman has submitted her explanation to the show cause notice which was not considered. The appeal preferred by the workwoman was also rejected.

3. It is further submitted that the charges levelled against the workwoman are mis-conceived and the scheme introduced was being regulated as per the circulars, guidelines from time to time and as instructed by the Chief Manager. The Disciplinary Authority failed to see that no complaint against the workwoman for mis-utilization of VSIDs of the bank customers are received. The findings of the Enquiry Officer as well as Disciplinary Authority are erroneous and they failed to see that Chief Manager/Branch Manager is responsible for not complying with the instructions and guidelines and the lower cadre cannot be panelized. It is further submitted that the Disciplinary Authority and Appellate Authority failed to see that Second charge do not attract the provisions of Clause 19.5 of Bi-partite Settlement and further there is no financial loss to the bank. It is further submitted that the evidence on record is not sufficient to prove the second charge against the workwoman and the punishment imposed is not justified with respect to the gravity of the charge.

4. The Respondent filed counter and denied averments made in the petition and submitted that while the concerned workwoman was working at Guntur branch as a clerk VSID scheme was introduced and charge sheet was also issued against the workwoman dated 28-7-1999 for speculating stocks and shares for deriving undue pecuniary benefits for self for getting issued VSIDs standing in the name of the bank customers names and for impersonating by affixing the signatures of the customers on the VSIs constituting gross misconduct under clause 19.5 of bi-partite settlement. The workwoman submitted her explanation to the charge sheet and on considering the explanation an enquiry was ordered by appointing an Enquiry Officer Sri U. Madhava Shettigar, Senior Manager. During the enquiry the Management has produced six documents by examining one witness and the chargesheeted employee has got marked 9 documents without examining any witness in support of her defence. The Enquiry Officer has submitted his report dated 25-8-2000 holding that the first charge is not proved and the second charge is partly proved. The copy of the enquiry report was given to the chargesheeted employee. The chargesheeted employee submitted her representation dated 19-9-2000 challenging the findings of the Enquiry

Officer in respect of the second charge. The Disciplinary Authority on considering her representation and the evidence on record issued a show cause notice proposing the punishment. The chargesheeted employee submitted her explanation and on considering her explanation and the evidence on record the Disciplinary Authority held that the second charge against her was proved and imposed the punishment differing with the opinion of the Enquiry Officer. It is further submitted that the workwoman got issued VSI 904231 against VSID 611/93 of Sri T. V. Subba Reddy standing in the name of bank's customer and impersonated by affixing the signature of the customer in violation of the rules governing VSID accounts. The fact that the signature appearing on the copy of VSID No. 904231 (Ex. 3) tallies with that of her signature, copy of page No. 12 of incumbent's register (Ex. 5). It is beyond doubt that the workwoman has issued VSI against VSID of the customer for deriving undue benefits to herself. The same fact was also established during enquiry. It is further submitted that the Management has taken appropriate disciplinary action against all the employees involved in the unauthorized action. The question that there is no financial loss to the bank is irrelevant in respect of the charge against the workwoman.

5. It is further submitted that the Disciplinary Authority has carefully considered the entire material on record including the explanation given by the workwoman and concluded that the second charge against the Petitioner is proved and rightly imposed the punishment which is commensurate with the gravity of the charges.

6. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

7. The Learned Counsel for the Petitioner contended that even though the Enquiry Officer observed in his enquiry report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were benami. He held erroneously that the charge No. 2 is partly proved and further contended that the shares were not allotted in the name of the workwoman or her relatives and there is no financial loss to the bank.

8. On the other hand, it is contended by the Respondent's counsel that the Enquiry Officer on considering the entire material found that the workwoman employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and thereby attempting to get the shares allotted without any investment with the funds belonging to the customers and which act of the

workwoman amounts to misconduct and also an act of prejudicial to the interest of the bank. It is further contended that the Disciplinary Authority differing with the conclusions of the Enquiry Officer regarding charge No. 2 held that the charge was entirely proved giving reasons to his conclusions.

9. The chargesheeted workwoman is charged with the following charges:

- “(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross-misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966.
- (ii) Your action of getting issued VSIs for self and impersonating for the customer by affixing the signature on the VSI contrary to rules governing VSID accounts constitute gross-misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966”.

10. During the enquiry the Management got marked six documents in support of their case by examining one witness and the chargesheeted workwoman has got marked nine documents without examining any witness. The Enquiry Officer on completion of the enquiry submitted his report dated 25-8-2000 holding that charge No. 1 was not proved and charge No. 2 is partly proved.

11. It is not in dispute that the Disciplinary Authority on considering the enquiry report and the representation made by the chargesheeted workwoman issued show cause notice proposing the punishment. The chargesheeted employee filed her explanation. On considering the entire records including the representations made by the workwoman and after hearing arguments on both sides the Disciplinary Authority accepted the findings of the Enquiry Officer and held that the charge No. 2 is entirely proved and inflicted the punishment.

12. It was concluded by the Enquiry Officer and Disciplinary Authority that the workwoman got issued VSI 904231 against VSID 611/93 of Sri T.V. Subba Reddy standing in the name of bank customer and impersonated by affixing the signature of the customer in violation of the rules governing the VSID accounts. It is also found that the signature appearing on the copy of VSID No. 904231 (Ex. 3) tallies with that of her signature in the copy of page No. 12 of incumbent's register (Ex. 5), proves that the workwoman has issued VSI against VSID of the customer for deriving undue benefit to herself.

13. The contention of the Learned Counsel for the Petitioner that there is no financial loss to the bank is irrelevant regarding the working of the Respondent bank. Since the shares were not allotted and the chargesheeted workwoman has not succeeded in her attempt of getting the shares cannot be constituted that her act is not prejudicial to the interest of the bank. The conduct on the

part of the chargesheeted employee in obtaining VSIs against VSIDs of customers and authorizing such transactions to benefit staff members, friends and relatives and thereby attempting to get shares allotted without investment, with the funds of customers amounts to misconduct.

14. Even though there is no prohibition on the employees of the bank availing the benefit of VSI scheme but VSIs can be got issued only against the VSI deposits in their accounts. But in the present case the chargesheeted employee has got the VSIs in her name against the VSI deposits standing in the name of the customers, thereby attempting to get the shares allotted without any investment with the funds belonging to the customers.

15. Considering the material on record I am satisfied that the evidence adduced by the Management is sufficient to come to the conclusion that the second charge is established. Further, the punishment imposed by the Disciplinary Authority is in consonance with the gravity of the charge. Under circumstances I do not see any sufficient ground to interfere with the findings of the Disciplinary Authority regarding awarding of punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in time scale of pay by one stage with cumulative effect for a period of one year on the workwoman Kum. K. S. V.A. Manga is justified and I do not see any ground to interfere with the punishment.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined : Witnesses examined for the
for the Petitioner Respondent

NIL NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4046. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 267/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12011/95/2002-आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref No. 267/2002 of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank, and their workmen, which was received by the Central Government on 19-09-2006.

[No. L-12011/95/2002-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd of August, 2006

INDUSTRIAL DISPUTE NO. 267/2002

BETWEEN

The Regional Secretary,
Vijaya Bank Workers Organization,
IIIrd Floor, Swarnalok Complex,
Eluru Road, VijayawadaPetitioner/Union

AND

The Asstt. General Manager,
Vijaya Bank, Regional Office,
1st Floor, 1st lane, Maruthinagar,
Mazjid Street, Vijayawada.Respondent

APPEARANCES

For the Petitioner : M/s. G. Vidya Sagar,
K. Udaya Sri,
K. Sudheer Rao,
B. Shivakumar and
D. Madhusudhan,
Advocates

For the Respondent : M/s. E. Ajay Reddy,
N.V. Ramana Rao,
Y. Arjun Rao &
K. Ravi Kumar Chary,
Advocates

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/95/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication with the following schedule :

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by two stages with cumulative effect for a period of two years upon Sri G. Srinivas ? If not, what relief is the disputant concerned entitled to ?"

2. The workman Sri G. Srinivas is represented by the Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that the workman worked as a clerk at Guntur branch in the Respondent organization during 1992—95. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and charge sheets were issued against 27 employees who worked at Guntur branch including the Petitioner workman.

3. The charge sheet dated 20-8-1998 alleging that he speculated in stocks/shares and getting issued VSIDs for self and in the names of his wife and children to gain undue pecuniary benefits and authorizing issuance of VSIs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of bipartite settlement.

4. In spite of submitting the explanation an enquiry was ordered by the Respondent Management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 5-10-2000 holding that the first charge is not proved and the second charge is partly proved. The workman has submitted representation dated 6-11-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issued a show cause notice proposing the punishment as stated in the schedule. The workman has submitted a detailed explanation dated 26-12-2000 but the Disciplinary Authority has confirmed the proposed punishment by his order dated 12-1-2001. The appeal filed by the workman was rejected by an order dated 14-8-2001. It is further submitted that the Disciplinary Authority failed

to see that there is no complaint against the workman for misutilisation of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transactions and further there is no financial loss.

5. The Respondent filed counter and denied averments made by the workman and admitted that workman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No. 1 is not proved and charge No. 2 is partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workman, a show cause notice issued proposing the punishment. Further, on considering the representation of the Petitioner to the show cause notice has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workman Sri G. Srinivas got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID accounts. The fact that the signature appearing the copy of VSIDs tallies with that of his signature on the copy of the register which proves that the workman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at Guntur branch who were involved in similar acts of misconduct were chargesheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents M Ex. 1 to M Ex. 226 by examining one witness in support of the charges and the Petitioner got marked 8 documents and did not examine any witness. On considering the evidence and explanation given by the workman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved,

even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workman or his relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering the entire material and the explanation of the workman that the charge No. 2 was entirely proved and further contended that the evidence on record is sufficient to come to the conclusion that the second charge against the workman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workman was charged with the following charges : "(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966, (ii) Your action of getting issued VSIs for self, in the name of your wife, children to gain pecuniary benefit and authorizing issuance of VSIs to staff members, their friends and relatives against VSIDs opened in the names of Bank's customers and in the accounts opened in benami names, authorizing opening of VSIDs in benami names without necessary funds to confer undue pecuniary benefits at the cost of risk of the bank contrary to rules governing VSID accounts and indulging in other fraudulent acts constitute gross misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management Sri C. P. Machado, Senior Manager was examined as MW1, during the enquiry the documents M Ex. 1 to M Ex. 226 were marked. As against this evidence the chargesheeted employee got marked 8 documents and he did not choose to examine any witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in his own name and it is further observed that even though VSIs issued in the name of chargesheeted employee were credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary

benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. During the enquiry the Respondent witness MW1 has stated that Petitioner workman has incorporated the names of S. Gopinath and K. Chalapathi Rao as other account holders and that the authority letter of incorporating the names of other two persons was not on record and added that the said SB Account was introduced by the chargesheeted employee workman and he also observes as follows :

"PO in his written brief has stated that the name of the holder of SB account No. was 14076. Srinivas Prasad and however, in the specimen signature column, the signature of K. Chalapathi Rao and N. S. Prasad and that the said SB account was introduced by the CSE. Further, he stated that the CSE has incorporated the names of S. Gopinath and K. Chalapathi Rao in the ledger sheet (Ex. M 224).

MW1 has informed that the wordings "anyone" written under special instructions in specimen signature card has not been authenticated by any officials when Defence Representative suggested to him during cross-examination that the said instructions were written by the departmental officer in his own handwriting.

While, I also agree that though the special instruction was noted in specimen signature card, the same has not been authenticated. Moreover, though the other two persons viz. K. Chalapathi Rao and S. G. Nath have signed under "specimen signature" and at the end under "Yours faithfully" columns of account opening form (Ex. M 223), their names do not appear in name and address column of 1st page. So also in the specimen signature card. Hence, it could be made out that the names were subsequent additions as joint account holders. As such, the authority letter for incorporation of the additional names is not on record."

12. The Disciplinary Authority on considering the material on record has confirmed the report of the Enquiry Officer and observed as follows :

"A perusal of the findings of the EO reveal that after carefully analyzing the evidence adduced during the enquiry and on taking into consideration the averments of the PO and DR in their written briefs. EO has held that it is established that CSE got issued VSIs detailed in page 1 the written brief dated 14-8-2000 of the Presenting Officer against VSIDs standing in names other than that of the CSE. Apparently they were standing in the names of customers. The signature of the CSE also tallying with that on EXM-225 i.e., Staff incumbent Register. Further the CSE has authorized issuance of VSIs in

the names of various staff members, their friends and relatives which have been substantiated by oral as well as documentary evidence. This assumes serious significance and speaks volumes about the mala fide intent of the CSE in perpetration of transactions of a questionable nature. Further, it is not an isolated instance but by willful design a number of VSIs have been availed against VSIDs of customers. Further while officiating, the CSE has altered the name of the VSID holder under VSID a/c No. 442/93, thereby evidencing authorization of opening of VSIDs by the CSE even though the credit slips did not bear any names. Similarly, it has also been established that the CSE has introduced SB account 14076 and incorporated additional name in the ledger sheet without any authority letter from the account holder.

Obtaining VSI against VSID of customers and authorizing such transactions to benefit certain staff members, their friends and relatives thereby attempting to get the shares allotted without any investment whatsoever with the funds belonging to customers is an act prejudicial to the interest of the bank to gain pecuniary benefit. CSE might not have succeeded in his attempt of getting the shares allotted. Merely because he was not allotted with shares, it cannot be construed that the same is not prejudicial to the interest of the bank as the said act on the part of the employee amounts to breach of trust reposed in him by the bank which is very grave in nature."

13. It should be noted that the chargesheet issued against the workman dated 20-8-1998 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the workman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workman got issued VSIs in his name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workman is proved. The contention of the Learned Counsel for the Petitioner workman that there is

no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

14. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

15. On considering the material on record I am satisfied that the Disciplinary Authority has rightly inflicted the punishment. I do not see any ground to interfere with the punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in time scale of pay by two stages with cumulative effect for a period of two years upon the workman Shri G. Srinivas.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	: Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4047.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 268/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/94/2002-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 268/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank and their workmen, which was received by the Central Government on 19-9-2006.

[No. L-12011/94/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd day of August, 2006

Industrial Dispute No. 268/2002

BETWEEN

The Regional Secretary,
 Vijaya Bank Workers Organization,
 III Floor, Swarnalok Complex,
 Eluru Road,
 Vijayawada

... Petitioner

AND

The Asst. General Manager,
 Vijaya Bank, Regional Office,
 1st Floor, 1st Lane, Maruthinagar,
 Mazjid Street,
 Vijayawada

... Respondent

APPEARANCES

For the Petitioner : M/s. G. Vidya Sagar,
 K. Udaya Sri, K. Sudheer
 Rao, B. Shivakumar and
 D. Madhusudhan,
 Advocates.

For the Respondent : M/s. E. Ajay Reddy,
 N. V. Ramana Rao,
 Y. Arjun Rao and
 K. Ravi Kumar Chary,
 Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/94/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication with the following schedule :

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by two stages with cumulative effect for a period of six years upon Sri M. Chenchu Ramaiah ? If not, what relief is the disputant concerned entitled to ?"

2. The workman Sri M. Chenchu Ramaiah is represented by the Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that the workman worked as a clerk at Guntur branch in the Respondent

organization during 1992—95. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and charge sheets were issued against 27 employees who worked at Guntur branch including the Petitioner workman.

3. The charge sheet dated 20-8-1998 alleging that he speculated in stocks/shares and getting issued VSIDs for self and in the names of his wife and children to gain undue pecuniary benefits and authorizing issuance of VSIs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of bipartite settlement.

4. In spite of submitting the explanation an enquiry was ordered by the Respondent Management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 9-10-2000 holding that the first charge is not proved and the second charge is partly proved. The workman has submitted representation dated 3-11-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issue a show cause notice proposing the punishment as stated in the schedule. The workman has submitted a detailed explanation dated 22-1-2001 but the Disciplinary Authority has confirmed the proposed punishment by his order dated 23-2-2001. The appeal filed by the workman was rejected by an order dated 23-6-2001. It is further submitted that the Disciplinary Authority failed to see that there is no complaint against the workman for mis-utilization of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transactions and further there is no financial loss.

The Respondent filed counter and denied averments made by the workman and admitted that workman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No. 1 is not proved and charge No. 2 is

partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workman, a show cause notice issued proposing the punishment. Further, on considering the representation of the Petitioner to the show cause notice, he has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workman Sri M. Chenchu Ramaiah got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID accounts. The fact that the signature appearing the copy of VSIDs tallies with that of his signature on the copy of the register which proves that the workman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at Guntur branch who were involved in similar acts of misconduct were chargesheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents M. Ex. 1 to M Ex. 411 by examining one witness in support of the charges and the Petitioner got marked 8 documents and did not examine any witness. On considering the evidence and explanation given by the workman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. On 27-1-2005 Petitioner's counsel conceded that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workman or his relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering

the entire material and the explanation of the workman that the charge No. 2 was entirely proved and further contended that the evidence on record is sufficient to come to the conclusion that the second charge against the workman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workman was charged with the following charges : "(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966, (ii) Your action of getting issued VSIs for self, in the name of your wife, children and relatives to gain pecuniary benefit against VSIDs opened in the names of Bank's customers and in the accounts opened in benami names and facilitated some of the parties to obtain VSIDs without remitting the required funds at the cost and risk of the bank contrary to rules governing VSID accounts and indulging in other fraudulent acts constitutes gross misconduct within the meaning of sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management one witness was examined as MW1, during the enquiry the documents M Ex. 1 to M Ex. 411 were marked. As against this evidence the chargesheeted employee got marked 8 documents and he did not choose to examine any witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in his own name and it is further observed that even though VSIs issued in the name of chargesheeted employee were cancelled as the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSIs been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. The Disciplinary Authority on considering the material on record has confirmed the report of the Enquiry Officer and observed as follows :

"The Enquiry Officer in his report of findings dated 9-10-2000 has furnished cogent reasoning for arriving at a conclusion that the charge No. 2 is Partly Proved. He has furnished his rationale/justification in the said report of findings for arriving at such conclusions. EXM-1, 4, 7, 9, 12, 17, 29, 32, 34, 36, 39, 41, 55, 2, 3, 5, 6, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, etc., have brought out the fact that the CSE obtained VSIs against the VSIDs standing in the names of customers in his name, in the name of his wife and relatives. The said VSIs obtained by the CSE are about 300 in number. A perusal of the enquiry proceedings reveal that during his cross examination, the CSE has agreed for having affixed his signatures

on the said VSIs thereby admitting the fact of obtaining VSIs on the VSIDs of customers. Some of the VSIs are also obtained in the name of the relatives of CSE by furnishing his care of address. On going through the transactions put through SB 9329 of CSE and his wife i.e., EXM-391, MWI deposed that on several days huge amounts were credited to the said account which are prima facie beyond the known source of income of the CSE. EXM-30, 31, 392, 393, 394, 395 etc., reveal that VSIDs were issued without funds and that credits were received after a lapse of 4 to 6 days. EXM-408, 409, 410, 411, 412 etc., have brought out that the CSE got credited the proceeds of a cheque for Rs. 1,00,462 issued favouring yourselves to his account and facilitated issuance of DDs for Rs. 82,000 and Rs. 18,462 without commission. While the deposition of MWI corroborates the above facts, defence has not made any attempts to contradict the same in cross examination of MWI. As the EO has arrived at his findings based on the exhibits cited above and on the strength of the deposition of MWI, the contention of the CSE that the EO has arrived at this findings without applying his mind etc., are without any substance. The aforesaid acts are to be construed as acts prejudicial to the interest of the bank apart from exposing the bank to financial loss. It is evident from the enquiry records that the CSE has got issued VSI for self in his name, in the name of his wife and children, staff members and others against VSIDs standing in the names of customers.

Further, in regard to the preliminary objections raised by the DR during the course of the departmental enquiry proceedings recorded at page 2, the same is only an attempt to disorient the fact finding process by bringing issues which are outside the purview of the chargesheet. The so called contradictions, surmises etc., raised by the DR does not come to the rescue of the CSE in view of the fact that the charges/issues have been vindicated by oral and documentary evidence. I also observe that MWI has been subjected to a detailed cross examination by the DR and afforded all reasonable opportunities and the principles of natural justice have been honored at every stage of the process of enquiry. The CSE is estopped from shifting the blame on other officials/staff members which in no way absolves the CSE of his lapses/involvement. Similarly, the pleading of the CSE that other employees against whom disciplinary action were initiated and the findings were one and the same etc., is not tenable in view of the magnitude/gravity of the involvement of the CSE.

Further, obtaining VSI against VSID of customers i.e., attempting to get the shares allotted without any

investment whatsoever with the funds belonging to customers is an act prejudicial to the interest of the bank to gain pecuniary benefit. CSE might not have succeeded in the attempt of getting the shares allotted and the question of financial loss may not be involved. Merely because he was not allotted with shares, it cannot be construed that the same is not prejudicial to the interest of the bank as the said act on the part of the employee amounts to breach of trust reposed in him by the bank which is very grave in nature."

12. It should be noted that the chargesheet issued against the workman dated 20-8-1998 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the workman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workman got issued VSIs in his name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workman is proved. The contention of the Learned Counsel for the Petitioner workman that there is no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

13. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

14. On considering the material on record, I am satisfied that the Disciplinary Authority has rightly inflicted the punishment. I do not see any ground to interfere with the punishment.

15. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in the time scale of pay by two stages with cumulative effect for a period of six years upon the workman Shri M. Chenchu Ramaiah.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence**Witnesses examined for
the Petitioner**

NIL

**Witnesses examined for
the Respondent**

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 269/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/92/2002-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 269/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workman, which was received by the Central Government on 19-9-2006.

[No. L-12011/92/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD****PRESENT:**

Shri T. Ramachandra Reddy, Presiding Officer

Dated, the 22nd day of August, 2006

Industrial Dispute No. 269/2002

BETWEEN:

The Regional Secretary,
Vijaya Bank Workers Organization,
III Floor, Swarnalok Complex,
Eluru Road,
Vijayawada

... Petitioner/Union

AND

The Asst. General Manager,
Vijaya Bank, Regional Office,
1st Floor, 1st Lane, Maruthinagar,
Mazjid Street,
Vijayawada

Respondent

APPEARANCES:**For the Petitioner**

M/s. G. Vidya Sagar,
K. Udaya, Sri K. Sudheer
Rao, B. Shivakumar and
D. Madhusudhan,
Advocates

For the Respondent

M/s. E. Ajay Reddy,
N. V. Ramana Rao,
Y. Arjun Rao and
K. Ravi Kumar Chary,
Advocates

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/92/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication with the following schedule:

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage for a period of one year which will have the effect of postponing the future increments on Smt. K. Anantha Padmavathi? If not, what relief is the disputant concerned entitled to?"

2. The workman Smt. K. Anantha Padmavathi is represented by the Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that the workman worked as a clerk at Guntur branch in the Respondent organization during 27-11-89 to 21-5-1998. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and chargesheets were issued against 27 employees who worked at Guntur branch including the Petitioner workman.

3. The chargesheet dated 28-7-1999 alleging that he speculated in stocks/shares and getting issued VSIDs for self and in the names of her family members to gain undue pecuniary benefits and authorizing issuance of VSIDs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts

opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of Bipartite Settlement.

4. In spite of submitting the explanation an enquiry was ordered by the Respondent Management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 12-10-2000 holding that the first charge is not proved and the second charge is partly proved. The workman has submitted representation dated 6-11-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issued a show cause notice proposing the punishment as stated in the schedule. The workman has submitted a detailed explanation dated 2-12-2000 but the Disciplinary Authority has confirmed the proposed punishment by his order dated 27-12-2000. The appeal filed by the workman was rejected by an order dated 17-5-2001. It is further submitted that the Disciplinary Authority failed to see that there is no complaint against the workman for mis-utilization of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transactions and further there is no financial loss.

5. The Respondent filed counter and denied averments made by the workman and admitted that workman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No. 1 is not proved and charge No. 2 is partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workman, a show cause notice issued proposing the punishment. Further, on considering the representation of the Petitioner to the show cause notice, he has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workman Smt. K. Anantha Padmavathi got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID accounts. The fact that the signature appearing the copy of VSID tallies with that of her signature on the copy of the register which proves that the workman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at

Guntur branch who were involved in similar acts of misconduct were chargesheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents M. Ex. 1 to M Ex. 55 by examining one witness in support of the charges and the Petitioner got marked 9 documents and did not examine any witness. On considering the evidence and explanation given by the workman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workman or her relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering the entire material and explanation of the workman that the charge No. 2 was entirely proved and further contended that the evidence on record is sufficient to come to the conclusion that the second charge against the workman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workman was charged with the following charges : (i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross-misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966. (ii) Your action of getting issued VSIs for self, in the names of your family members to gain pecuniary benefit against VSIDs opened in the names of Bank's customers and in the accounts opened in benami names contrary to

the rules governing VSID accounts constitutes gross misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management one witness was examined as MW1, during the enquiry the documents M. Ex. 1 to M Ex. 55 were marked. As against this evidence the chargesheeted employee got marked 9 documents and she did not choose to examine any witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in his own name and it is further observed that even though VSIs issued in the name of chargesheeted employee were credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. During the enquiry the Enquiry Officer observes as follows :

"The Presenting Officer in his written brief has stated that contrary to instructions continued in HOC 149/92 and 169/93 the CSE had availed VSIs in her name vide Ex. M3, 12, 13, 15, 18, 19, 25, 27, 34, 36, 38 and 42 by referring to address furnished by her on the reverse of the VSIs against the VSIDs standing in the names of Bank's customers and added that the signature of the CSE appeared in these exhibits tallying with the signature appearing in incumbent register (Ex. M 51). He further added that the VSIs as per Ex. M2, 4, 6, 8, 9, 10, 16, 20, 22, 24, 28, 30, 32, 39, 40, 41, 43, 44, 45, 46, 47 and 48 were also availed by the friends and relatives of the CSE as was referred to the address furnished on the back side of the respective VSIs against the VSIDs of Bank's customers.

During the cross-examination, MW1 deposed that VSIs vide Ex. M2, 24, 25 and 40 have only been allotted and the remaining have not been allotted and were cancelled and the proceeds of cancelled VSIs were credited to the respective VSID holders accounts and the CSE's account had not been credited with any of the cancelled VSIs.

Smt. T. Valli who was VSID 429/93 holder of Guntur branch appearing as Defence Witness (DW1) deposed that she had availed two VSIs in the name of Shri Krishna Murthy and K. Ananthapadmavathi and during cross examination she deposed that in order to get more allotment of shares she had availed VSIs in the name of above two persons and on allotment of shares to those two persons, she had taken back the said shares from the concerned persons along with transfer deeds and sold them.

As per the documents on record, it is evident that the VSIs were issued in the name of the CSE as is appearing on the face of respective VSIs and also as per the signature appearing therein (which tallied with that of the signatures appearing in incumbent register) and VSIs were also issued in the name of CSE's family members as per the address given on the reverse side of the VSIs (As confirmed by MW1) issued against VSIDs standing in the name of Bank's customers.

Irrespective of the fact whether the VSIs were issued in the name of the CSE and/or her friends and relatives at the request of the CSE or by the VSID holders themselves, the fact that the CSE and her friends and relatives have subscribed their respective signatures to the VSIs issued on VSIDs of the bank's customers is prejudicial to the interests of the bank whether it is within the knowledge of the VSID account holders or not as the instructions contained in HOC 149/92 is that the VSIs should be utilized by the purchasers for applying shares/debentures/bonds in his/her name only when the instructions were being so, I have every reason to believe the deposition of MW1 that in violation of HO Circular instructions, the CSE has availed VSI facility in her name and in the name of her friends and relatives from the VSID accounts of the customers. Moreover, the deposition of DW1 in page 12, that she has taken back the share certificates allotted to Shri M. M. Krishna Murthy and Ananthapadmavathi along with transfer deeds and sold them goes to strengthen the view that the said transactions were within the knowledge of the CSE, her friends/relatives.

Since all the VSIs except 3 or 4 (for which shares were allotted as per Defence Representative's written brief) were cancelled and the proceeds were credited back to the respective VSID holders accounts on non allotment of shares, the charge that the CSE has derived undue pecuniary benefits is not fully established.

And also observed that : "PO in his written brief has stated that the CSE had transferred a sum of Rs. 6,000.00 alongwith interest of Rs. 510.00 from VSID 453/93 to current account No. 1417 on 25-7-94 when the balance under VSID 453/93 was nil. However, he has further stated that Rs. 3,000.00 was collected on 23-11-95 and the remaining amount of Rs. 3,000.00 was also collected on 15-5-98 and that no record is available for the collection of interest on the amount overdrawn and excess interest paid on VSID 453/93.

Defence Representative in his written brief has stated "CSE had passed the slips as advised by the Department officer for transfer and the same was

authorized by the officer of the Department as per Ex. M53. the overdrawn outstanding was recovered, as far as collection of interest was concerned, CSE was not in the Department and Department officer would have been ensured for collection of the interest for that CSE is not responsible, it is negligence on the part of the Department officer for not collecting the small portion of the interest.”

12. The Disciplinary Authority on considering the material on record has confirmed the report of the Enquiry Officer and observed as follows :

“A perusal of the findings of the EO reveal that after carefully analyzing the evidence adduced during the enquiry and on taking into consideration the averments of the PO and DR in their written briefs, EO has held that it is established that CSE got issued VSIs 07692, 758289, 056547, 904198, 074350, 074368, 758243, 905889, 761168, 904134, 905889, 076296 in her name and VSIs 076298, 076305, 056550, 056564, 056569, 056551, 056557, 904195, 074352, 761400, 075750, 905890, 904138, 905305, 905890, 909344, 132970, 076299, 076297, 076300, 076301, 076302, 076303 in the names of her friends and family members against VSIDs standing in the names of bank's customers. The aforesaid documents substantiate beyond any doubt the fact of CSE's getting issued VSIs in her name and in the names of her family members and friends against VSIDs of customers. In the circumstances, the contention of the CSE that EO has failed to arrive at his own conclusion independently and evaluate the documentary evidence adduced during the enquiry is not tenable and hence rejected.

In regard to the contention of the CSE that the charge is either proved or not proved and it cannot be held as partly proved, a perusal of findings of EO reveal that he has framed 2 issues viz., (1) whether the CSE speculated in stocks and share and derived undue pecuniary benefits for self, in the name of her friends and family members by getting issued various VSIs against VSIDs standing in the names of Bank's customers/benami names and (2) so as to confer undue pecuniary benefits on the party debited any sum to VSID account and transferred the proceeds to current account. In regard to issue No. 1, while EO has held speculating in stocks and shares and opening VSIDs in benami names as not proved, the issue pertaining to obtention of VSIs against VSIDs of customers is held as proved. Similarly, in regard to issue No. 2, EO has held transfer of Rs. 6,000 and Rs. 510 to VSID 453/93 when the account was showing Nil balance has proved and conferring undue pecuniary benefit as not proved. Thus, EO has held both the issues as partly proved. Further, obtaining VSIs against VSIDs of customers i.e., attempting to

get the shares allotted without any investment whatsoever with the funds belonging to customers is an act prejudicial to the interest of the bank to gain pecuniary benefit. CSE might not have succeeded in her attempt of getting the shares allotted. Merely because she was not allotted with shares, it cannot be construed that the same is not prejudicial to the interest of the bank as the said act on the part of the employee amounts to breach of trust reposed in her by the bank which is very grave in nature.”

13. It should be noted that the chargesheet issued against the work woman dated 28-7-99 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the work woman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workwoman got issued VSIs in her name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workwoman is proved. The contention of the Learned Counsel for the Petitioner workwoman that there is no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

14. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

15. On considering the material on record, I am satisfied that the Disciplinary Authority has rightly inflicted the punishment. I do not see any ground to interfere with the punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in the time scale of pay by one stage for a period of one year which will have the effect of postponing the future increments on Smt. K. Ananthapadmavathi.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence**Witnesses examined for
the Petitioner**

NIL

**Witnesses examined for
the Respondent**

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 270/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/91/2002-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 270/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank and their workman, which was received by the Central Government on 19-9-2006.

[No. L-12011/91/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd day of August, 2006

Industrial Dispute No. 270/2002**BETWEEN:**

The Regional Secretary,
Vijaya Bank Workers Organization,
III Floor, Swarnalok Complex,
Eluru Road,
Vijayawada.

... Petitioner

AND

The Asst. General Manager,
Vijaya Bank, Regional Office,
1st Floor, 1st Lane, Maruthinagar,
Mazjid Street,
Vijayawada.

... Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K.
Udaya Sri, K. Sudheer
Rao, B. Shivakumar and
D. Madhusudhan,
Advocates.

For the Respondent : M/s. E. Ajay Reddy,
N. V. Ramana Rao,
Y. Arjun Rao and
K. Ravi Kumar Chary,
Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/91/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication with the following schedule :

SCHEDULE

“Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon Smt. J. Sujatha ? If not, what relief is the disputant concerned entitled to ?”

2. The workwoman Smt. J. Sujatha is represented by the Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that the workwoman worked as a clerk at Guntur branch in the Respondent organization during 1992—1995. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and chargesheets were issued against 27 employees who worked at Guntur branch including the Petitioner workwoman.

3. The chargesheet dated 29-7-1999 alleging that she speculated in stocks/shares and getting issued VSIDs for self and in the names of her family members to gain undue pecuniary benefits and authorizing issuance of VSIDs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts opened in benami names without necessary funds to confer

undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of Bi-partite Settlement.

4. In spite of submitting the explanation an enquiry was ordered by the Respondent Management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 10-10-2000 holding that the first charge is not proved and the second charge is partly proved. The workwoman has submitted representation dated 25-10-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issued a show cause notice proposing the punishment as stated in the schedule. The workwoman has submitted a detailed explanation dated 25-11-2000 but the Disciplinary Authority has confirmed the proposed punishment by his order dated 12-1-2000. The appeal filed by the workwoman was rejected by an order dated 17-5-2001. It is further submitted that the Disciplinary Authority failed to see that there is no complaint against the workwoman for mis-utilization of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workwoman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transactions and further there is no financial loss.

5. The Respondent filed counter and denied averments made by the workwoman and admitted that workwoman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No. 1 is not proved and charge No. 2 is partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workwoman, issued a show cause notice proposing the punishment. Further, on considering the representation of the Petitioner to the show cause notice, he has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workwoman Smt. J. Sujatha got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID account. The fact that the signature appearing the copy of VSIDs tallies with that of his signature on the copy of the register which proves that the workwoman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at Guntur branch who were involved in similar

acts of misconduct were chargesheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents M. Ex. 1 to M Ex. 7 by examining one witness in support of the charges and the Petitioner got marked 9 documents and did not examine any witness. On considering the evidence and explanation given by the workwoman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workwoman or her relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering the entire material and the explanation of the workwoman that the charge No. 2 was entirely proved and further contended that the evidence on record is sufficient to come to the conclusion that the second charge against the workwoman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workman was charged with the following charges : (i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross-misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966, (ii) Your action of getting issued VSIs for self contrary to the rules governing VSID accounts constitute gross misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management one

witness was examined as MW1, during the enquiry the documents M. Ex. 1 to MEx. 7 were marked. As against this evidence the chargesheeted employee got marked 9 documents and she did not choose to examine any witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in her own name and it is further observed that even though VSIs issued in the name of chargesheeted employee were credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. During the enquiry the Enquiry Officer observes as follows :

"The Presenting Officer in his written brief has stated that contrary to instructions continued in HOC 149/92 and 169/93 the CSE had availed VSIs in her name vide Ex. M1 and 4 standing in the names of Bank's customers and added that though the VSI Nos. 758323 and 758324 were not issued against VSID 733/93 standing in the name of Bank's customer.

Defence Representative in his written brief has stated that the CSE had not availed any VSIs out of VSID account 733/93 as confirmed by MW1 and that the CSE had never requested to issue VSI 904303 against VSID 606/93 since PO/Management could not produce any relevant documents.

Here it is true that the relevant VSI applications were not produced during the enquiry as pointed out by the Defence Representative, but the fact remains that VSIs 758323, 758324, 904303 were issued in the name of CSE. MW1 has confirmed the signature of CSE on these VSIs by comparing her signature with that of the one appearing in incumbent register (Ex. M6) of the branch. There is nothing unusual in comparing the official signature of the CSE with the one appearing in incumbent register of branch. Further, the argument of Defence Representative that VSI 758323 (Ex. M2) and 758324 (Ex. M3) were not issued under VSID 733/93, is true, but the fact remains that these two VSIs were issued on some other VSID account if not on VSID 733/93. Hence, on this score, the deposition of MW1 that these two VSIs are found in the concerned register as verified during the course of enquiry."

12. It should be noted that the chargesheet issued against the workman dated 29-7-1999 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the workman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per 31/7/06-24

instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workman got issued VSIs in her name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workman is proved. The contention of the Learned Counsel for the Petitioner workman that there is no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

13. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

14. On considering the material on record, I am satisfied that the Disciplinary Authority has rightly inflicted the punishment. I do not see any ground to interfere with the punishment.

15. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon Smt. J. Sujatha.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

NIL

Witnesses examined for
the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4050. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के

प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 271/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/90/2002-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 271/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workman, which was received by the Central Government on 19-9-2006.

[No. L-12011/90/2002-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd Day of August, 2006

Industrial Dispute No. 271/2002

BETWEEN:

The Regional Secretary,
Vijaya Bank Workers' Organization,
III Floor, Swarnalok Complex,
Eluru Road,
Vijayawada.

... Petitioner

AND

The Asst. General Manager,
Vijaya Bank, Regional Office,
1st Floor, 1st Lane, Maruthinagar,
Mazjid Street,
Vijayawada

... Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar,
K. Udaya, Sri K. Sudheer
Rao, B. Shivakumar and
D. Madhusudhan,
Advocates

For the Respondent : M/s. E. Ajay Reddy,
N. V. Ramana Rao,
Y. Arjun Rao and
K. Ravi Kumar Chary,
Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/90/2002-IR (B-II) dated 12-7-2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication with the following schedule :

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon Sri D. Thataiah ? If not, what relief is the disputant concerned entitled to ?"

2. The workman Sri D. Thataiah is represented by the Regional Secretary, Vijaya Bank Workers' Organization, Vijayawada. It is submitted that the workman worked as a clerk at Guntur branch in the Respondent organization from 17-5-1995 onwards. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and chargesheets were issued against 27 employees who worked at Guntur branch including the Petitioner workman.

3. The chargesheet dated 27-7-1999 alleging that he speculated in stocks/shares and getting issued VSIDs for self and in the names of his wife and children to gain undue pecuniary benefits and authorizing issuance of VSIDs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of Bipartite Settlement.

4. In spite of submitting the explanation an enquiry was ordered by the Respondent Management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 15-9-2000 holding that the first charge is not proved and the second charge is partly proved. The workman has submitted representation dated 26-9-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issued a show cause notice proposing the punishment as stated in the schedule. The workman has submitted a detailed explanation dated 29-11-2000 but the Disciplinary Authority has confirmed the proposed

punishment by his order dated 27-12-2000. The appeal filed by the workman was rejected by an order dated 19-2-2001. It is further submitted that the Disciplinary Authority failed to see that there is no complaint against the workman for mis-utilization of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transactions and further there is no financial loss.

5. The Respondent filed counter and denied averments made by the workman and admitted that workman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No. 1 is not proved and charge No. 2 is partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workman, a show cause notice issued proposing the punishment. Further, on considering the representation of the Petitioner to the show cause notice, he has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workman Sri D. Thataiah got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID accounts. The fact that the signature appearing the copy of VSIDs tallies with that of his signature on the copy of the register which proves that the workman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at Guntur branch who were involved in similar acts of misconduct were chargesheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents M. Ex. 1 to M Ex. 9 by examining one witness in support of the charges and the Petitioner got marked 10 documents and did not examine any witness. On considering the evidence and explanation given by the workman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workman or his relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering the entire material and explanation of the workman that the charge No. 2 was entirely proved and further contended that the evidence on record is sufficient to come to the conclusion that the second charge against the workman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workman was charged with the following charges : "(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966; (ii) Your action of getting issued VSIs for self, in the name of your wife, friends/relatives contrary to rules governing VSID accounts constitutes gross misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management one witness was examined as MWI, during the enquiry the documents M. Ex. 1 to M Ex. 9 were marked. As against this evidence the chargesheeted employee got marked 10 documents and he examined Sri Ch. Shivaramamurthy, Guntur of defence witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in his own name and it is further observed that even though VSIs issued in the name of chargesheeted employee were credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. During the enquiry the Enquiry Officer observes as follows :

“The Presenting Officer in his written brief has stated that the CSE had availed VSI 132963 in his name and VSIs 132962, 909361, 132954, 909332, 909358 in his wife and friends/relatives name against VSID accounts 549/95, 548/95 362/95 and 365/92 respectively in violation of HOC 149/92 and 169/93. Further, referring to deposition of DW1, Presenting Officer has stated that DW1 had requested Shri D. Tataiah his friends and relatives to apply for shares against his VSIs.

During cross-examination, MW1 deposed that VSI 132962 (Ex. M2), 132963 (Ex. M3) and 132954 (Ex. M4) were cancelled and the proceeds of those cancelled VSIs were credited to VSID 537 to 556/95 of Sri K. Nageshwara Rao, the account holder. Further, he informed that since the staff members are not authorized to avail the VSID facility from the customer's account, he had concluded in his investigation report that the staff members have taken VSIs from the customers of VSID account without the knowledge of the VSID holders when DR asked him to base his conclusion as above in his investigation report (Ex. M9).

Sri Ch. Shivaramamurthy, a customer of Guntur branch appearing as defence witness (DW1) deposed that he had opened VSID account for the purpose of availing VSIs for applying shares/debentures etc., during examination in chief.

During cross examination, when PO asked DW1 the reason for his applying VSIs 909358 in the name of Shri J. Prasad Rao and 909361 in the name of D. Dayamani, W/o Sri D. Tataiah, i.e., other than his name, he (DW1) informed that by applying in different names by way of individual share applications instead of applying all the shares in his name the chances of getting more allotment was bright and hence he requested Shri D. Tataiah, his friends and relatives to apply for shares as per his requisition.

As per the documents on record, it is evident that VSI 132963 was issued in the name of the CSE and VSI 9585092, 132954, 909358 and 909361 were issued in the names of CSE's wife, friends and relatives names against VSID 549/95, 540/95, 362/95 and 365/95 respectively standing in the names of Bank's customers.

By quoting defence witness's deposition DR has stated that the share applied against VSID by Sri D. Tataiah was not allotted whereas the shares applied by Sri J. Prasad and Mrs. Dayamani against VSIs were allotted and the share certificates were held

with him (DW1). Adding further, DR has stated that as per HO circular, the proceeds of cancelled VSIs is to be credited back to VSID account and the bank had acted accordingly irrespective of whether VSI was applied by the VSID a/c holder himself or by his agent or friends and relatives, and that when Bank had credited the proceeds of cancelled VSIs to VSID holder's account, the involvement of CSE or his friends and relatives does not arise.

The fact that the CSE and his wife, friends and relatives have subscribed their respective signatures to the VSIs issued on VSID of the bank's customers is prejudicial to the interest of the Bank, whether it is within the knowledge of the VSID Account holders or not, as the instructions contained in HOC 149/92 is that the VSIs should be utilised by the purchasers only for applying shares/debentures/bonds in his/her name only. When the instructions were being so, I have every reason to believe the deposition of MW1 that in violation of HO circular, the CSE has availed VSI facility in his name, and in the name of his wife, friends and relatives from the VSID Accounts of the customers. Moreover, the deposition of DW1 in page 10 that he has taken the shares allotted to Shri J. Prasad Rao and Smt. D. Dayamani from them and he is in possession of the above share certificates goes to strengthen the view that the said transactions are within the knowledge of the CSE, his wife and friends and relatives.

Since the VSI 132963 in the name of the CSE, VSI 132962 in his wife's name and VSI 132954 in his friends/relatives' name were cancelled and credited back to the concerned VSID holder's account, on non-allotment of shares, the charge that the CSE has derived undue pecuniary benefits is not fully established.

12. The Disciplinary Authority on considering the material on record has confirmed the report of the Enquiry Officer and observed as follows :

“A perusal of the findings of the EO reveal that after carefully analyzing the evidence adduced during the enquiry and on taking into consideration the averments of the PO and DR in their written briefs, EO has held that it is established that CSE got issued VSI 132963 in his name and VSIs 132954, 909358, 909361 and 132962 in the names of his wife, friends and relatives by furnishing care of address of the CSE against VSIDs 549/95, 548/95, 540/95, 362/95 and 365/95 standing in the names of Bank's customers. Signature of the CSE appearing in EXM-2 i.e., VSI 132963 tallies with that of the signature of the CSE appearing in EXM-8 i.e., Incumbent Register. The aforesaid documents substantiate beyond any doubt the fact of CSE's getting issued VSIs against VSIDs

of customers in his name, in the names of his wife, friends and relatives. In the circumstances, the contention of the CSE that EO has failed to independently evaluate the points of law affecting him and has arrived at an erroneous conclusion are not tenable and hence rejected. In regard to the contention of the CSE that the charge is either proved or not proved and it cannot be held as Partly Proved, a perusal of findings of EO reveal that he has split the charge levelled against the CSE into 2 issues viz., speculating in stocks and shares and deriving undue pecuniary benefit by getting issued VSIs against VSIDs of customers, while EO has held issue No. 1 as Not Proved, the other issue viz., getting issued obtaining VSIs against VSIDs of customers is held as proved, thus holding charge No. 2 as Partly Proved. Further, obtaining VSI against VSID of customers i.e., attempting to get the shares allotted without any investment whatsoever with the funds belonging to customers is an act prejudicial to the interest of the bank to gain pecuniary benefit. CSE might not have succeeded in his attempt of getting the shares allotted. Merely, because he was not allotted with shares, it cannot be construed that the same is not prejudicial to the interest of the bank as the said act on the part of the employee amounts to breach of trust reposed in him by the bank which is very grave in nature."

13. It should be noted that the chargesheet issued against the workman dated 27-7-1999 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the workman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workman got issued VSIs in his name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workman is proved. The contention of the Learned Counsel for the Petitioner workman that there is no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

14. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

15. On considering the material on record, I am satisfied that the Disciplinary Authority has rightly inflicted the punishment. I do not see any ground to interfere with the punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon the workman Shri D. Thataiah.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

NIL

Witnesses examined for
the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का.आ. 4051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 54/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/1/2003-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workmen, which was received by the Central Government on 19-9-2006.

[No. L-12011/1/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

PRESENT:

Shri T. Ramchandra Reddy, Presiding Officer

Dated the 13th day of September, 2006

Industrial Dispute No. 54/2003

BETWEEN

The Regional Secretary,
 Vijaya Bank Workers' Organisation,
 IIIrd floor, Swarnalok Complex,
 Eluru Road, Vijayawada

... Petitioner

AND

The Regional Manager,
 Vijaya Bank, Head Office,
 41/2, M. G. Road, Trinity Circle,
 Bangalore-560001

... Respondent

APPEARANCES:

For the Petitioner : M/s. V. Umadevi, I. V. Prasad
 & G. Praveen Kumar,
 Advocates

For the Respondent : M/s. E. Ajay Reddy, N. V.
 Ramana Rao, K. Ravi
 Kumar Chary & A. Naveen
 Kumar Yadav, Advocates

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/1/2003-IR (B-II) dated 22-4-2003 in exercise of powers conferred under clause (d) sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 for adjudication of the dispute between the Vijaya Bank Workers' Organisation representing Smt. N. Saraswathi and the General Manager, Personnel Department, Vijaya Bank with the following schedule :

SCHEDULE

"Whether the action of the management of Vijaya Bank in dismissing the services of Smt. N. Saraswathi, Ex-PTS is justified? If not, what relief the workman is entitled to?"

This reference was registered as Industrial Dispute No. 54/2003 and notices were issued to the parties.

The Petitioner union submitted claim application of Smt. N. Saraswathi who was initially engaged as part time sweeper in Tirupathi branch of the Respondent bank on 1-7-1985. After opening of the Currency Chest at Tirupathi

she worked as part time sweeper at different branches of the Respondent bank working for more than 632 days. The Currency Chest, Tirupathi branch was opened on 26-6-2000. Since then, she was continuously working as part time sweeper and she was unlawfully terminated orally w.e.f. 1-8-2001. The action of the Respondent bank in terminating her services is illegal and arbitrary. She was paid 1/3rd scale wages in the Currency Chest branch from 26-6-2000 till her termination on 31-7-2001. She was being paid prorata wages as applicable to the part time sweeper on 1/3rd scale wages. It is further submitted that for the appointment of part time sweepers in the Respondent bank is bound by the bipartite settlement dated 19-10-66 only the appointment of part time sweepers are codified under clause 20.7 and 20.8 of the settlement which reads as follows :

"Clause 20.7 : Temporary Employee will mean a workman who has been appointed for a limited period for work which is of an essential temporary nature or who is employed temporarily as an additional workman in connection with a temporary increase in work of a permanent nature and includes a workman other than permanent workman who is appointed in a temporary vacancy caused by the absence of a particular permanent workman.

Clause 20.8 : A Temporary workman may also be appointed to fill a permanent vacancy provided that such temporary appointment shall not exceed a period of 3 months during which the bank shall make arrangements for filling up the vacancy permanently. If such a temporary workman is eventually selected for filling up the vacancy, the period of such temporary employment will be taken into account as a part of his probationary period."

3. It is further submitted that the service conditions of the part time sweepers including working hours and wages was bound by the guidelines under clause 18.1 and 18.2 of bipartite settlement dated 10.4-1989 read with clause 20 of the bipartite settlement dated 27-3-2000. It is further submitted that the Respondent bank is only appointing temporary employees without giving a chance to Smt. N. Saraswathi to continue in service or from getting permanent status in terms of the provisions of Bipartite Settlement. The Petitioner's union raised the dispute before the Assistant Labour Commissioner (C) on 3-9-2001 who held conciliation meetings and sent a failure report.

4. The Respondent filed a counter affidavit of Sri A. Satish Hegde, Assistant General manager, Vijaya Bank, Vijayawada. He submitted that there is no relationship of master and servant between the Respondent and the workman Smt. N. Saraswathi and further contended that the workman was engaged only as a temporary sweeper at Currency Chest, Tirupathi at different dates intermittently. The said engagement do not confer legal right to the

workman of continuation or regular absorption. It is further submitted that the service conditions of the staff of the Respondent bank are governed by the Sastri Award as modified by Desai Award and subsequent Bipartite Settlement entered into at the industry level between the Indian Banks' Association representing the Management of the banks and All India Association of workmen.

5. The Petitioner workman filed affidavit and got marked the following documents : Ex.W1 is the representation made by the Vijaya Bank Workers' Association to the Assistant General Manager on behalf of the Petitioner workwoman. Ex.W2 is the letter addressed to the Assistant Labour Commissioner(C) by the Vijaya Bank Workers' Association for intervention and conciliation. Ex.W3 is the copy of representation of Smt. N. Saraswathi. Ex.W4 is the copy of service certificate dated 22-4-1995 showing the total working days of the Petitioner as 668 days from 1985 till she was terminated. Ex.W5 is the copy of letter recommending for filling of the vacancy of part time sweepers by Manager in-charge, Currency division, Tirupathi dated 6-1-2001. Ex.W6 is the copy of proceeding No. ROV/PER/TGS/951/2001 of AGM, Vijaya Bank dated 16-8-2001 showing that the Petitioner workman is not eligible for absorption on the ground she was not working on consolidated wages at Currency Chest, Tirupathi.

6. The Respondent was set ex parte on 9-3-2006. Heard arguments of the Petitioner workman.

7. Learned Counsel for the petitioner contended that the workman worked as a part time sweeper from 1-7-1985 to 31-7-2001 for more than 16 years at Tirupathi and she also worked in Currency Chest branch at Tirupathi from 26-6-2000 to 31-7-2001 and she was paid 1/3rd of the wages of the regular employees and that she is entitled for absorption.

8. It was as pleaded in the counter that the workman was engaged as sweeper purely on temporary basis, intermittently, at different dates in Currency Chest, Tirupathi and that her engagement was purely contractual basis and automatically has come to an end on the expiry of the period and further pleaded that she is not eligible for absorption under the rules governing the recruitment of part time sweepers.

9. The Petitioner has established that she worked continuously as a part time sweeper and entitled for absorption under the rules governing the recruitment of the part time sweepers. Ex.W2 shows that she worked from 26-6-2000 to 30-6-2000 and she was paid Rs. 203.78 for that month and further shows that she had engaged only for the months of January, May, June and July, 2001. Ex.W4 which is said to have been issued by the bank discloses that she worked only for 668 days in total intermittently at different period on temporary basis. Ex.W6 regarding the

absorption of the Petitioner workwoman who is part time sweeper. It was informed that the Petitioner who is not working on consolidated wages at Currency Chest, Tirupathi is not eligible. As she was not considered for absorption. It appears that the application of the Petitioner workman for absorption was considered by the Respondent Management and finding that the workwoman along with Smt. T. Prameela and Smt. C. Laxmamma were engaged for cleaning the office premises by paying 1/3rd scale wages and the request of the Petitioner workwoman is not considered as she was not eligible for absorption as sweeper as per Ex.W5.

10. The Petitioner workwoman intermittently engaged for certain period and her application could not be considered as she is not entitled for absorption by the Respondent. It should be noted that appointments have to be made by following the rules governing the post. The Petitioner could not establish as she is not entitled for absorption under any scheme. Even the Petitioner worked for quite some years, she can not claim for regularization and absorption. I am supported by the decision of the Apex Court in 2006(1) Decisions Today (SC) page 493, The Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors. It was observed at paras 34 and 38 as under :

“Para 34 : Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme of public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wages worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to present regular recruitment at the instance of temporary employees whose period of employment has come to an end or

of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and it terms of the Constitutional Scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the Judgement, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

Para 38 : When a person enters a temporary employment or gets engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the state has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

11. In view of the circumstances, I hold that the action of the Management in dismissing the services of the workman Smt. N. Saraswathi, Ex-PTS is justified and the Petitioner is not entitled for any relief.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 13th day of September, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
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WW1 : Smt. N. Sarsawathi NIL

Documents marked for the Petitioner

Ex.W1 : Copy of representation of the union dt 3-8-2001

Ex.W2 : Copy of application for invitation of conciliation proceedings to ALC(C) dt 3-9-2001

Ex.W3 : Copy of representation of WW1 dt. 25-8-2001

Ex.W4 : Copy of service certificate dt. 22-4-95

Ex.W5 : Copy of recommendation of Manager-incharge, currency division dt. 6-1-2001

Ex.W6 : Copy of Lr. No. ROV/PERTGS/951/2001 of AGM, Vijaya Bank

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 272/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/89/2002-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 272/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank and their workman, which was received by the Central Government on 19-9-2006.

[No. L-12011/89/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 22nd day of August, 2006

INDUSTRIAL DISPUTE NO. 272/2002

BETWEEN

The Regional Secretary,
 Vijaya Bank Workers' Organisation,
 IIIrd Floor, Swarnalok Complex,
 Eluru Road, Vijayawada. ... Petitioner

AND

The Asst. General Manager,
 Vijaya Bank, Regional Office,
 1st Floor, 1st Lane, Maruthinagar,
 Mazjid Street, Vijayawada. ... Respondent

APPEARANCES:

For the Petitioner : Ms. G. Vidya Sagar, K. Udaya
 Sri, K. Sudheer Rao,
 B. Shivakumar and
 D. Madhusudhan, Advocates.

For the Respondent : M/s E. Ajay Reddy, N. V.
 Ramana Rao, Y. Arjun Rao &
 K. Ravi Kumar Chary,
 Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/89/2002-IR (B-II) dated 16-7-2002 in exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication with the following schedule :

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage for a period of one year which will have effect of posting his future increments upon Sri. K. Sudheendra ? If not, what relief is the disputant concerned entitled to ?"

2. The workman Sri K. Sudheendra is represented by the Regional Secretary, Vijaya Bank Workers' Organization, Vijayawada. It is submitted that the workman worked as a clerk at Guntur branch in the Respondent organization during the year 6-4-92 to 5-5-98. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received

with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and charge sheets were issued against 27 employees who worked at Guntur branch including the Petitioner workman.

3. The charge sheet dated 27-7-1999 alleging that he speculated in stock/shares and getting issued VSIDs for self and in the names of his wife and children to gain undue pecuniary benefits and authorizing issuance of VSIs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of bipartite settlement.

4. In spite of submitting the explanation an enquiry was ordered by the Respondent management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 10-11-2000 holding that the first charge is not proved and the second charge is partly proved. The workman has submitted representation dated 21-10-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issued a show cause notice proposing the punishment as stated in the schedule. The workman has submitted a detailed explanation dated 29-11-2000 but the Disciplinary Authority has confirmed the proposed punishment by his order dated 27-12-2000. The appeal filed by the workman was rejected by an order dated 3-5-2001. It is further submitted that the Disciplinary Authority failed to see that there is no complaint against the workman for misutilization of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transactions and further there is no financial loss.

5. The Respondent filed counter and denied averments made by the workman and admitted that workman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No. 1 is not proved and charge No. 2 is partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workman, a show cause notice issued proposing the punishment. Further, on considering the representation of the Petitioner to the show cause

notice, he has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workman Sri K. Sudheendra got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID accounts. The fact that the signature appearing the copy of VSIDs tallies with that of his signature on the copy of the register which proves that the workman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at Guntur branch who were involved in similar acts of misconduct were chargesheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents Ex. M. 1 to Ex. M. 6 by examining one witness in support of the charges and the Petitioner got marked 10 documents and did not examine any witness. On considering the evidence and explanation given by the workman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workman or his relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No. 2 is partly proved held on considering the entire material and the explanation of the workman, that the charge no. 2 was entirely proved and further contended that the evidence on record is sufficient to come

to the conclusion that the second charge against the workman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workman was charged with the following charges : "(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1996. (ii) Your action of getting issued VSIs for self and impersonating for the customer by affixing the signature on the VSI contrary to rules governing VSID accounts constitute gross misconduct within the meaning of sub-clause (j) of clause 19.5 of chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management one witness was examined as MW1, during the enquiry the documents Ex. M. 1 to Ex. M. 6 were marked. As against this evidence the chargesheeted employee got marked 10 documents and he did not choose to examine any defence witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in his own name and it is further observed that even though VSIs issued in the name of chargesheeted employees were credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. During the enquiry the Enquiry Officer observed as follows :

"PO in his written brief has stated that CSE in violation of HOC 169/93 had availed VSIs in his name against VSIDs standing in the name of Bank's customers as the signatures of the CSE appeared in Ex. M2 and 4 tally with the signature of the CSE appeared in Ex. M5 (Copy of the incumbent register).

Here it is pertinent to note that as per clause 5.12—page 4 of HOC 169/93 VSIs should be delivered by the branches duly signed with relevant particulars like deposit account no., amount, name of the payee, date, etc. Hence, the argument of DR during cross examination that the proceeds in respect of cancelled VSIs credited to purchaser's account is not convincing. As already explained by me elsewhere, DR has not made mention of the VSIs allotted and paid to the beneficiary i.e. the company. That is to say, no mention is made as to how the VSID account holders (i.e. the customers) interest is protected in case the VSI issued in the name of the staff members, their friends and relatives on VSIDs of customers were allotted and not cancelled.

It is true that the relevant VSI applications were not produced during the enquiry as pointed out by the

Defence Representative, but the fact remains that VSIs 905456 (Ex. M2) and VSI 904657 (Ex. M4) were issued in the name of the CSE. MW1 has confirmed the signature of CSE on these VSIs by comparing her signature with that of the one appearing in incumbent register (Ex. M5) of the branch. There is nothing unusual in comparing the official signature of the CSE with that of the signature appearing in incumbent register of the branch.

Since the VSIs in question were cancelled on non-allotment, the allegation that the CSE has derived undue pecuniary benefit has not been fully established."

12. The Disciplinary Authority on considering the material on record has confirmed the report of the Enquiry Officer and observed as follows :

"A perusal of the findings of the EO reveal that after carefully analyzing the evidence adduced during the enquiry and on taking into consideration the averments of the PO and DR in their written briefs, EO has held that it is established that CSE got issued VSI 905456 and 904657 in his name and VSIDs standing in the names of Bank's customers. Signature of the CSE appearing in Ex. M-2 i.e., VSI 905456 and 904657 tallies with that of the signature of the CSE appearing in EXM-5 i.e., Incumbent Register. The aforesaid documents substantiate beyond any doubt the fact of CSE's getting issued VSIs against VSIDs of customers in his name. In the circumstances, the contention of the CSE that EO himself could not come to any definite conclusion whatsoever and failed to arrive at his own conclusion independently are not tenable. In regard to the contention of the CSE that the charge is either proved or not aproved and it cannot be held as Partly Proved, a perusal of findings of EO reveal that he has split the charge levelled against the CSE into 3 issues viz., speculating in stocks and shares, deriving undue pecuniary benefit by getting issued VSIs against VSIDs of customers/benami names and impersonating for the customers. While EO has held issue No. 1 and part of issue No. 2 i.e., opening accounts in benami names as not proved, the other issue viz., getting issued VSIs against VSIDs of customer and impersonation by the CSE is held as proved, thus holding charge No. 2 as partly Proved. Further, obtaining VSI against VSID of customer i.e., attempting to get the shares allotted without any investment whatsoever with the funds belonging to customers is an act prejudicial to the interest of the bank to gain pecuniary benefit. CSE might not have succeeded in his attempt of getting the shares allotted. Merely, because he was not allotted with shares, it cannot be construed that the same is not prejudicial to the interest of the bank as

the said act on the part of the employee amounts to breach of trust reposed in him by the bank which is very grave in nature."

13. It should be noted that the charge sheet issued against the workman dated 27-7-1999 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the workman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workman got issued VSIs in his name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workman is proved. The contention of the Learned Counsel for the Petitioner workman that there is no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

14. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

15. On considering the material on record, I am satisfied that the Disciplinary Authority has rightly inflicted the punishment. I do not see any ground to interfere with the punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in the time scale of pay by one stage for a period of one year which will have effect of posting his future increments upon Shri K. Sudheendra.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :

NIL

Witnesses examined for the Respondent :

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 186/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/191/1999-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 19th September, 2006

S.O. 4053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 186/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of Andhra Bank and their workmen, which was received by the Central Government on 19-9-2006.

[No. L-12011/191/1999-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 12th day of September, 2006

INDUSTRIAL DISPUTE NO. 186/2002**BETWEEN**

The Zonal Secretary,

Andhra Bank Award Empls. Union,

C/o Andhra Bank, Maharnipeta branch,

Visakhapatnam-530002.

... Petitioner

AND

The Assistant General Manager,

Andhra Bank, Zonal Office,

Seethamadhara,

Visakhapatnam-530013.

... Respondent

APPEARANCES:

For the Petitioner : M/s. A. V. Sambasiva Rao
& A.S. Ramasarma,
Advocates

For the Respondent : M/s. S. Udayachala Rao, S.
Lavanya Lakshmi, S.
Vikramaditya Babu & S.
Mujib Kumar, Advocates

AWARD

This is a reference made by the Government of India, Ministry of Labour by its order No. L-12011/191/99-IR (B-II) dated 29-3-2000 in exercise of powers conferred under section 10(1) (d) of the I.D. Act, 1947 for adjudication of the dispute between the Andhra Bank Award employees Union, Visakhapatnam and Dy. General Manager, Andhra Bank, Visakhapatnam with the following schedule:

SCHEDULE

“Whether the action of the management of Andhra Bank is not empanelling Shri K.C. Chowdhary as a sub-staff as per his eligibility, as demanded by the Andhra Bank Award Employees Union, is legal and/or justified? If not, what relief the concerned union is entitled to?”

This reference was registered as Industrial Dispute No. 186/2002 and notices were issued to the parties.

2. The Petitioner filed his claim statement stating that the dispute is raised challenging non-empanellment of Sri K.C. Chowdhary as sub-staff. It is further submitted that Petitioner workman was appointed by the Respondent Management from 8-6-97 at Parvatipuram as sub-staff and no appointment order was issued. The management obtained signatures on vouchers and paying monthly wages. It is further submitted that an agreement was entered between the management and the workman for empanellment and absorption of temporary candidates who have been engaged by the bank between 1-1-82 and 31-12-89 in terms of the approach paper of the Government of India. The eligibility criteria is that all those temporary candidates engaged by the bank between 1-1-82 to 31-12-89 who have responded to press notification of the bank dated 28-10-92 and 31-10-91 and circular No. 310 dated 28-10-91 and who have put in minimum service of 90 days or more during the above period will be eligible for the benefits under the settlement. It is further submitted that the Petitioner is entitled for empanellment as he has already put in minimum service of 90 days and the action of the management is illegal and contrary.

3. The respondent filed the counter and denied the averments made in the petition. However it is admitted that the management and the union reached an agreement under Sec. 12.3 of Industrial disputes Act, 1947 before the Assistant labour Commissioner(C) at Hyderabad on 9-1-95. It is further submitted that the Petitioner has worked only for 48 days as temporary sub-staff out of 113 days. For the rest of the period the workman has worked only as a temporary part time sweeper and it is clear from the certificate produced by the Petitioner. It is further submitted that the approach paper is essential for temporary employees and daily wage employees and not to the part time sweepers. As such the Petitioner is not eligible for empanellment.

4. The Petitioner workman examined himself as WW1 and got marked the following documents : Ex. W1 is the copy of particulars of temporary service of the Petitioner in the bank. Ex. W2 is the copy of letters recommending WW1 dated 23-12-91 and 10-2-95 by the managers. Ex. W3 is the minutes of conciliation proceedings. Ex. W4 is the copy of another recommendation letter for the Petitioner workman dated 10-2-95. Ex. W5 is the copy of letter for empanellment of WW1 dated 4-10-95. Ex. W6 is the copy of service particulars of WW1 and two others dated 23-8-95. Ex. W7 is copy of letter No. 423/4/242 dated 8-12-95 regarding appointment of temporary staff. Ex. W8 is the copy of letter No. 423/3/380 dated 26-12-95 regarding appointment of temporary staff. Ex. W9 is the copy of letter dated 6-11-96 regarding confirmation of engaging casual labourers. Ex. W10 is the copy of another recommendation letter for WW1 dated 23-12-91.

5. As against this evidence the Respondent management filed evidence affidavit of Sri V. Ramakrishna and got marked the following documents. Ex. M1 is the copy of approach paper dated 16-8-90. Ex. M2 is the copy of circular No. 310 dated 18-10-1991. Ex. M3 is the copy of settlement dated 9-1-1995. Ex. M4 is the copy of letter dated 13-12-1990 of the Government of India. Ex. M5 is the authorization letter given by the Dy. General Manager (per.) to depose in this case. Ex. M6 is also authorization.

6. It is not in dispute that a settlement has been arrived at between the Management and All India Andhra Bank Award Employees Union on 9-1-1995 regarding the empanellment and absorption of temporary candidates who have been engaged by the bank between 1-1-82 and 31-12-89 in terms of the approach paper of the Government of India. The required modality with regard to the empanellment for the sub-staff is, that the sub-staff cadre in the bank should work on temporary basis for 90 days or more subsequent to 1-1-82.

7. The Learned Counsel for the Petitioner vehemently contended that the workman has put in more than 90 days between 8-6-87 to 30-9-89 as per Ex. W1 issued by the bank. As such he is eligible for empanellment and subsequent absorption in the Respondent bank.

8. On the other hand, the Learned Counsel for the Respondent contended that the workman has put in only 48 days as a temporary sub-staff. As such he is not eligible for empanellment.

9. Ex. W1 is not disputed by the Respondent. It discloses that workman has worked as sub-staff at Parvathipuram branch for more than 90 days between May, 1987 to September, 1989. The Branch Manager also recommended to Regional Manager for empanellment of the workman on the ground that he has worked on temporary basis in the branch. Though the Respondent has taken the plea that the Petitioner has worked only for 48 days, did

not choose to produce any evidence. Ex. W1 which is a material document discloses that Petitioner has worked for more than 90 days during the relevant period. As such he is entitled to be empanelled. Ex. W1 shows that the workman has worked temporarily as a sub-staff and not as a part time sweeper. The Respondent could not produce a evidence to rebut the evidence of the workman that he is not entitled for empanellment under the approach paper. On considering the evidence on record, I hold that the Petitioner has worked for more than 90 days as required under the approach paper and the settlement arrived at between the union and the Respondent bank. As such he is entitled for empanellment of his name and future absorption as and when vacancies arises.

10. In view of the circumstances, and award is passed holding that the action of the management of Andhra Bank in not empanelling the workman Sri K. C. Chowdhary as a sub-staff is illegal and not justified. As such a direction is given to the Respondent to include his name in the list of empanellment.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 12th day of September, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
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WW1 : Sri K.C. Chowdary	MW1 : Sri V. Ramakrishna
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Documents marked for the Petitioner

Ex. W1 : Copy of temporary service particulars of WW1
Ex. W2 : Copy of Lr. Nos 423/4/457 & 423/3/311
Ex. W3 : Copy of minutes of joint discussions dt. 13-8-97
Ex. W4 : Copy of Lr. No. 423/3/311 dt. 10-2-95
Ex. W5 : Copy of Lr. No. 423/3/322 dt. 4-10-95
Ex. W6 : Copy of Lr. No. 423/3/144 dt. 3-8-95
Ex. W7 : Copy of Lr. No. 423/3/347 dt. 8-12-95
Ex. W8 : Copy of Lr. No. 423/3/380 dt. 26-12-95
Ex. W9 : Copy of Lr. No. 423/3/922 dt. 6-11-96
Ex. W10 : Copy of Lr. No. 423/4/457 dt. 23-12-91

Documents marked for the Respondent

Ex. M1 : Copy of approach paper dt. 16-8-1990
Ex. M2 : Copy of circular No. 310 dt. 18-10-1991
Ex. M3 : Copy of settlement dt. 9-1-1995

Ex.M4 : Copy of Ir. No. 3/3/104/90-IR (Part) dt. 13-12-90

Ex.M5 : Copy of Ir. No. 666/20/L/5567/361 dt. 10-12-2003

Ex.M6 : Copy of Ir. No. 666/20/L/17-67/284 dt. 27-10-2003

नई दिल्ली, 21 सितम्बर, 2006

का.आ. 4054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल कौंसिल आफ होम्योपैथी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 13/99) के शुद्धिपत्र को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/5/98-आई आर (डी.यू.)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Corrigendum to the Award (Ref. No. 13/99) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Council of Homoeopathy and their workman, which was received by the Central Government on 4-9-2006.

[No. L-42012/5/98-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II
RAJENDRA BHAWAN, RAJENDRA PLACE,
NEW DELHI**

CORRIGENDUM

Corrigendum in ID 13/99 is corrected as below :

The following address "The Gen. Secretary, I.S.M. & Homoeopathy Council Emp. Asstt., 61-65, Institutional Area, J.L.N. Bharatiya Chikitsa Avum Homoeopathy, Anusandhan Bhawan, Opp. D-Block, Janakpuri, New Delhi 110058" given below Respondent has been deleted from its present position and has been added above under the applicant's address in page 1 in ID No. 13/99.

Corrigendum in M.A. No. 1/2003 connected with ID 13/99 is corrected as below :

1. The following address "The Gen. Secretary, I.S.M. & Homoeopathy Council Emp. Asstt., 61-65, Institutional Area, J.L.N. Bharatiya Chikitsa Avum Homoeopathy, Anusandhan Bhawan, Opp. D-Block, Janakpuri, New Delhi- 110058" given below Respondent has been deleted

from its present position and has been added above under applicant's address in page 1 in M.A. No. 1/2003 connected with ID No. 13/99.

2. The 9th word 'not' in 24th line in page No. 13 has been deleted.

R.N. RAI, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2006

का.आ. 4055.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-233/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-40025/5/2006-आई आर (डी यू.)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LCID 233/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 21-9-2006.

[No. L-40025/5/2006-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 13th day of September, 2006

INDUSTRIAL DISPUTE L.C.L.D. NO. 233/2002

BETWEEN

Sri K. Srinivasulu,
R/o 1/13, Nidjur Village & Post,
Kurnool District.

... Petitioner

AND

1. The Chief General Manager,
Telecom, A.P. Circle,
Hyderabad.

2. The General Manager (Transmission) Projects, Telecom, 3-6385, 1st & 2nd floors, Himayatnagar, Hyderabad.
3. The Assistant Engineer (Transmission) Projects, Telecom, O/o The Divisional Engineer (Projects), Telecommunications, Anantapur. . . . Respondent

APPEARANCES

For the Petitioner : Ms. B.S.A. Satyanarayana,
K. Venkateswar Rao & V.G.
Rajulu, Advocates

For the Respondent : Sri R.S. Murthy, Advocate

AWARD

This is a case taken under Sec 2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others. This is a petition filed by the Petitioner Sri K. Srinivasulu for reinstatement and for absorption with back wages and all attendant benefits.

2. The Petitioner submitted that he was initially appointed as a casual mazdoor under AE(T), Projects, Kurnool [under Divisional Engineer (Projects), Anantapur] for a period of 3 years from January, 1991 to December, 1993. On closure of the office of Assistant Engineer at Kurnool he was discharged from the work. Since he has worked for more than 240 days each year continuously his retrenchment from the service is in violation of the provisions of the Sec. 25F and 25G of the Industrial Disputes Act, 1947. It is further submitted that the Petitioner was not paid prorata wages every month as per the rules during his service of three years. The petitioner has made several representation but no action was taken by the Respondent. He was retrenched from service from 1-1-94 without any notice or retrenchment compensation.

3. The Respondent filed counter affidavit of Sri D. Radhakrishnan, Sub-Divisional Engineer, Telecom Transmission Projects, Anantapur and denied averments made in the petition. It is submitted that Respondents are entrusted with the responsibility of setting up and maintenance of Telephones and Telegraphs through the control of Ministry of Communications under the Government of India Allocation of Business Rules 1961. The Respondents 2 and 3 were vested with the functions of completion of the projects connected with the telecom network in the Andhra Pradesh. In execution of the projects by way of erection of Microwave Towers, laying of OFC cable, huge manual work force is required and the said work is intermittent and not continuous. The project organisation used to engage the casual labour on daily

wages or on contract basis for specific works for specific period and they were disengaged afterwards.

4. It is further submitted that the petitioner was engaged intermittently on consolidated wages and charged to the relevant estimates and appropriate works and on completion of the project the Petitioner was disengaged. The Petitioner was not engaged continuously and the Petitioner has come to the tribunal after lapse of 8 years. Hence, the Petitioner is not entitled for the relief claimed.

5. The Petitioner filed evidence affidavit and got marked the following documents : Ex.W1 is the Xerox copy showing the number of days he worked from January, 1991 to 31-12-93. Ex. W2 is the Xerox copy showing the number of days each month he has worked.

6. The Respondent filed evidence affidavit of Sri D. Radhakrishnan, MW1 and got marked the following documents : Ex.M1 to M4 are copies of letters regarding casual labour recruitment by the DG P&T, dated 30-3-85, 22-6-88, 7-11-89 and 12-2-99 respectively.

7. The plea of the Petitioner is that though the Petitioner was engaged as casual labour continuously for a period about three years and though the Petitioner has attained temporary status and entitled for reinstatement and other benefits he was retrenched.

8. The Learned Counsel for the Respondent contended that the claim of the Petitioner for reengagement of the ground that he worked for more than 240 days and that he was discharged in violation of Sec. 25F and 25G of Industrial Disputes Act, 1947 is misconceived and baseless, particularly when the Petitioner admitted that he was disengaged after completion of the project work. It is further contended that the Petitioner was engaged only for a specific work and specific period and on completion of the same he was discharged. As such the provisions of Sec. 25F has no application and further contended that the Petitioner was intermittently engaged on the project work and the Petitioner has no right to claim reinstatement.

9. Admittedly, the Petitioner was engaged for the execution of the project for certain period. Therefore, the question of retrenchment does not arise when he was engaged for a specific period and for a particular job and the provisions of Sec. 25F of Industrial Disputes Act, 1947 are not attracted. I am supported by the decision in NFC VS. K. Penta Reddy, 2002(2) A.I.D. page 384. It should be noted that the regular appointment could be made only in terms of the recruitment rules and the petitioner who has worked only for a specific period and for particular job is not entitled to get a temporary status or for absorption. Even though the Petitioner worked for more than 240 days in a year in a specific project he is not entitled for reinstatement and absorption. I am supported by the decision of the Hon'ble Supreme Court in 2006(1) Decisions Today (SC) Page 493, between the Secretary, State of Karnataka & Ors. Vs.

Umadevi & Ors. It was observed at paras 34 and 38 as under :

"Para 34 : Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme of public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. It is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to present regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the Judgement, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not

interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

Para 38 : When a person enters a temporary employment or gets engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

10. In view of the said rulings and taking into consideration of the facts I hold that the Petitioner is not entitled for the relief sought. In the result, the petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 13th day of September, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for : Witnesses examined for
the Petitioner : Respondent :

WW1 : Sri K. Srinivasulu : MW1 : Sri D. Radhakrishnan

Documents marked for the Petitioner

Ex. W1 : Xerox Copy showing No. of days worked by WW1 from Jan '91 to 31-12-93

Ex. W2 : Xerox Copy showing No. of days worked each month by WW1

Documents marked for the Respondent

Ex. M1 : Copy of DGP&T Lr. No. 270/6/84-STN, New Delhi dt. 30-3-98

Ex. M2 : Copy of DGP&T Lr. No. 270/6/84-STN, New Delhi dt. 22-6-88

Ex. M3 : Copy of DG, Telecom Lr. No. 269-10/89-STN, New Delhi dt. 7-11-89

Ex. M4 : Copy of Lr. No. 269-4/93-STN-II (Pt.) dt. 12-2-99

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 35/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-14011/17/2002-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer and their workman, which was received by the Central Government on 21-9-2006.

[No. L-14011/17/2002-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT:

Shri A. N Yadav, Presiding Officer

Case No. 35/2003

Date 11-9-2006

- (1) The Garrison Engineer, MES, Bairagarh, Bhopal (M. P.).
- (2) The Commander Works Engineers, Sultania Infantry Lines, Bhopal (M. P.), 482001.

Versus

The Organising Secretary, MES Kamgar Union C/o Sh. Pradeep Kumar Raikwar, Old Dairy Farm, One Tree Hill, Bairagarh, Bhopal (M. P.).

AWARD

The Central Government after satisfying the existence of disputes between the Organizing Secretary, MES Kamgar Union, Party No. 2 and The Garrison Engineer, Party No. 1 referred the same for adjudication to this Tribunal under clause (d) of sub-section (1) and sub-section 2(A) of the Section 10 of the Industrial Disputes Act, 1947 vide order No. L-14011/17/2002-IR(DU) dt. 28-1-2003 with the following schedule :

“Whether the action of the management of Garrison Engineer, Bairagarh and Commander Works

Engineers, Bhopal by not promoting Shri Basant Kumar Kaithwas even though he is a senior and promoting his juniors in the post of mate is justified ? If not, to what relief the workman is entitled ?”

Right from the date of receipt of dispute, i.e. from 28-2-2003, no body appeared either for the respondent or for the petitioner. The union vide its letter dt. 10-6-2003, 11-8-2003 received by posts to this Tribunal has informed that it does not want to proceed with the case. Hence they have prayed to allow them to withdraw it. Accordingly their applications are allowed and the dispute is disposed of as dismissed for non-existence of dispute. Thus this no dispute award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट ऑफ पोस्ट ऑफिस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 2/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/50/2004-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sr. Supdt. of Post offices and their workman, which was received by the Central Government on 21-9-2006.

[No. L-40012/50/2004-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT:

Shri A. N Yadav, Presiding Officer

Case No. 02/2005

Date 12-9-2006

Shri Shriniwas Hiredeve

Party No. 1

Versus

The Superintendent of Post,
Respondent.

Party No. 2

3117 GI/06-26

AWARD

The Central Government, Ministry of Labour, New Delhi after satisfying about the existence of disputes between the petitioner and respondent exercise its power under sub section (1) and sub section 2(a) of Section 10 of the Industrial Disputes Act has referred this dispute for adjudication vide order No. L-40012/50/2004-IR(DU) dt. 24-11-2004 with the following schedule.

(2) "Whether the action of the management in relation to Senior Superintendent of Post Office, Chanda Division in terminating the services of Shri Shriniwas Madbukar Hiradeve, Ex-EDBPM, Bakhardi, vide office order No. 2179/BPM/Bakhardi dated 14-1-2003 is legal and justified? If not, to what relief the workman is entitled?"

(3) In response to the notices, the parties appeared and party No. 1 petitioner, Shriniwas Hiredeve filed a Statement of Claim, while party No. 2, Post Master General filed a Written Statement resisting the claim of the petitioner. It is the contention of party No. 1 that he was illegally terminated by the respondent, party No. 1 w.e.f. 14-1-2003 when he was working as a Branch Post Master at Bakhardi, District Chandrapur. He worked on the holiday dated 30-1-1998 on account of Id-ul-Fitr because he was not informed by the management about it. Similarly he attended one meeting at Korapna a Taluka place as he was summoned by the authority on spending Rs. 26. The management did not pay the wages for his work on 30-1-1998 and the expenses of attending the above meeting though he attended as per direction of his superior officer. He requested to the authority of the post office but no body has cared. He wrote letter to the collector and sent the copies to the various authorities. Despite of it he did not get the relief therefore he sat for a hunger strike in front of the Main Post Office, Chandrapur. Earlier to it on 8-3-2000 he informed the Sub Divisional Inspector (P), Central Sub Division, Chandrapur and proceeded on hunger strike on 9-3-2000. As his health was ruined, he was removed from the hospital. The Post Office remained closed because the Inspector of Posts did not make any arrangement. However he was served with the chargesheet and after holding an illegal enquiry was dismissed from the service w.e.f. 14-1-2003. According to him the enquiry was not fair and proper. The order of termination dt. 14-1-2003 is erroneous, illegal, arbitrary and whimsical. He prayed to quash and set aside the illegal termination order declaring that the management indulged in unfair labour practices. He has also prayed for reinstatement with the full back wages.

(4) The respondent resisted the claim by filing the Written Statement having admitted the relationship as a employee and employer, and terminated his services after enquiry, it has denied the allegations of the petitioner. It has denied that the enquiry was not proper and in accordance with the principles of natural justice of giving

full opportunities to the petitioner and that the order of the termination is illegal. According to it he had knowledge of the holiday on account of Id-ul-Fitr. He was not at all entitled to claim D. A. and T. A. on account of visit to Korapna. The act of resorting to hunger strike was intentional and can not be justified in any way. The enquiry was properly held and the Enquiry Officer after recording the evidence passed a reasoned order terminating his services. He wrote a letter to the superior officer. He also wrote an application on 16-2-2000 to the Collector, Chandrapur and submitted a copy of it to the Postal Authority and without any reason, to the Higher dignitaries right from Honorable President of India, Prime Minister, Law Minister of the Central and on state level to the Chief Minister and others, informing his intention to proceed on a hunger strike if his demands are not fulfilled. He has informed so many problems in the letter with which the department was not at all concerned. His past records are also not unblemished. Earlier to it also he was dismissed by the department on 7-8-1982. He was removed from the services. Later on he was reinstated as per directions of the Honorable C.A.T. The management, party No. 1 has supported its order of termination dt. 14-1-2003.

(5) By an order dt. 20-7-2006, I have already concluded that the enquiry was valid following the principles of natural justice and giving full opportunities to defend himself to the petitioner. I have already concluded that the Industrial Laws are applicable to the Post Office since it is an industry within the meaning of Section 2 of ID Act as per principles expressed by the Honorable Supreme Court. The Parties did not adduce the evidence after enquiry because it was already recorded and the written notes of argument were also submitted. Now the point for my consideration is as under :—

- (a) Whether the findings of the Enquiry Officer are perverse?
- (b) Whether the punishment is disproportionate to the alleged misconduct of the delinquent?

So far as point (a) is concerned it seems that there were following three charges against the delinquent :

- (i) That he kept the Post Office closed for a period from 9-3-2000 to 21-3-2000 and did not perform any work which is misconduct as per rule 103 and 17 of Service Rules.
- (ii) He was absent from the duties without submitting any application for leave which is misconduct as per rule 5 and 17.
- (iii) He started and remained on hunger strike without any permission in front of Main Post Office, Chandrapur, which is a misconduct within the meaning of rule 19 and 17.

(6) The Enquiry Officer after recording and considering the evidence adduced by the parties concluded that the management has succeeded in proving all the above three charges. The petitioner submitted that the findings of the Enquiry Officer are perverse and are liable to set aside. The witnesses as well as the complaints were deliberately called by the Management. In fact the witnesses have no complaints against him. He cross-examined the witnesses and according to him he elicited the truth that they had no complaints against him but the Enquiry Officer ignored it and gave a wrong findings. However this submission of the petitioner cannot be accepted. The perusal of cross-examination, indicates the witnesses did not complained against the Inspector of Post who called them for recording their statements. It cannot be said that they have no complaints against the petitioner, it simply means that they did not complain in writing about the petitioner but expressed it when they were asked.

(7) Similarly the evidence of Bandu Kakde is clear and sufficient to prove the charges. According to the petitioner he has stated the complaints of one, Sunita Gawande but he personally had no complaint. Sunita Gawande ought to have stated if she had any complaint. However his evidence shows that as he learned about the enquiry against the petitioner, he himself went to the Post Office and made his statement. How it can be said that he had no complaints against the petitioner. Moreover in domestic enquiry even the here say evidence can be accepted and relied upon. There is no allergy of the here say evidence. Therefore the Enquiry Officer rightly considered and accepted it. From the record it is clear that the petitioner had proceeded on hunger strike w.e.f. 9-3-2000 to 12-3-2000. Later on he was admitted in the hospital. The petitioner did not disclose when he join the duties, the fact remains that he was absent from 9-3-2000 onwards till he joined and the Post Office remained closed when he was absent. According to petitioner on 9-3-2000, 10-3-2000, 11-3-2000 he was on hunger strike and he was removed to the hospital. He did not disclose the date when he was taken to the hospital and for how many days he was in the hospital. He has claimed that the post office was opened w.e.f. 11-3-2000 but there is nothing on record to show it as alleged. He is blaming for not opening the post office to the Inspector of Post because he could not make any alternate arrangement. According to him he informed for making arrangement during his absence to the management by a letter dt. 8-3-2000. Earlier to it he had issued a letter disclosing his intention on 16-2-2000 to the Collector and submitting the copies to the various authorities. However the copies of the both letters are not filed on record by the petitioner, nor there is any evidence to show that the letter dt. 8-3-2000 was received to the Inspector of Posts. Apart from the contents of this letter there is nothing to show that a sufficient time was available for making arrangement. Besides this if the alleged reply

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sent to the Enquiry Officer is perused, page No. 5 of reply in respect of charge No. 3, the letter dt. 16-2-2000 had other complaints also to which the department has no concern. Whatever it may be he had never sought permission for proceeding either on hunger strike or he had applied for the leave. He simply informed on the previous date and proceeded on hunger strike at Chandrapur. If he was interested in a alternate arrangement, he could have sought the permission giving sufficient time. He simply informed on the previous day and proceeded on hunger strike at Chandrapur for his so called legal demands. He could have applied to the Labour Court or to ALC for raising the disputes if his claim was as per rules. Proceeding on hunger strike cannot be justified. The fact remains that he was absent and no work of the Post Office had taken place during his absence. It is not the case that he had applied for the leave before proceeding on strike and ask the department to make some arrangement. The party No. 2 is denying that the letter dt. 8-3-2000 was received to it and there is nothing to prove it besides the bear words of the petitioner.

(8) It seems that the applicant is claiming that he was entitled to proceed on hunger strike for his legal demands and the period of his hunger strike should not have been treated as a absence from his duties. He has never applied for the leave of any kind for his absence when he was on hunger strike. How absence can be justified and treated as a duty period when he was actually not even present in the Post Office. Thus the absence from the duties and proceeding on the hunger strike is also apparent. In my opinion the findings of the Enquiry Officer are right that the petitioner was not on duty. The findings of the Enquiry Officer cannot be treated as perverse particularly when the absence was undisputed.

(9) Turning to the point of adequacy of the punishment, let us consider the submissions of the both parties. According to the petitioner it is disproportionate to the misconduct. He cited a case of Apex Court reported in 1999 (1) Bom LC, 394 (SC), Ramavtar Singh Versus State Public Service Tribunal and Others in which a Police Constable was reinstated by the Honorable Supreme Court considering that he was on hunger strike for one day only. However the facts of case before me are different. The applicant is claiming a right to proceed on a hunger strike and did not even inform when he joined the duties. He was required to remove in the hospital as he was on hunger strike for a least three days. Moreover earlier also he was dismissed from the service in the year 1982 and later on he was reinstated by the order of Honorable Central Administrative Tribunal. His record cannot be said as unblemished even the applicant while making oral submissions has stated that he has sent the copies of the letter to the various dignitaries which is my view is not proper and correct. In this circumstances the punishment cannot be treated as disproportionate and the action of

management is legal and justifiable. The dispute deserves to be rejected. Accordingly it stands dismissed. Hence the Award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी जी आई टी/एल सी/आर/167/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-40011/2/91-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/167/94) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 21-9-2006.

[No. L-40011/2/91-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/167/94

PRESENT:

Shri C. M. Singh, Presiding Officer

Shri Mahesh Prasad Yadav and 2 others,
Through Shri M. P. Singh,
Samyukta Parimandal Secretary,
National Union of Telegraph Engineering,
Employees Telegraph Staff and Workcharge,
Satna (M. P.) ... Workman/Union

Versus

The Chief General Manager,
Telecom,
M. P. Doorsanchar Parimandal,
Bhopal (M. P.),
The Divisional Engineer,
Telegraph, Satna (M. P.) ... Management

AWARD

Passed on this 21st day of August, 2006

The Government of India, Ministry of Labour vide its Notification No. L-40011/2/91-IR (DU) dated 29-9-94 has referred the following dispute for adjudication by this tribunal :—

"Whether the action of the management of Telecom District Engineer, Satna (M. P.) in terminating the services of S/Sh. Mahesh Prasad Yadav, Amarjeet Verma and Shiv Prasad Kushwaha w.e.f. 25-9-90 and 20-9-90 is proper, legal and justified? If not, to what relief the workmen are entitled to?"

2. The case of workmen Shri Mahesh Prasad Yadav (died during the pendency of this reference case), Shri Amarjit Verma and Shri Shiv Prasad Kushwaha is follows. That they were working under the Telecom District Engineer, Satna since a long period of time. All of them were engaged as casual labourers. Their services were terminated w.e.f. 25-9-90 and 20-9-90. All of them were employed with the management continuously for more than 240 days in calendar years to their termination from service. Their services were terminated on the allegation that they absented themselves from duty without leave. Prior to their termination from the service, they were not given any show cause notice or chargesheet and no departmental enquiry was conducted against them. The termination would therefore amount to retrenchment and the same having been brought about without complying with the mandatory provisions of Sec. 25-F of the I. D. Act, 1947 is illegal. Hundreds of casual employees who are junior to them are still working with the management. According to directions issued by the Hon'ble Supreme Court of India, a scheme has been formulated and according to the scheme persons who have completed more than 600 days of service are entitled to be regulated. The workman have put in the service of more than 240 days and therefore they are entitled to be regularised. According to the circulars issued by the management, no casual labour should be employed after 1985 and labours who are on rolls as on 31st March, 1985 are to be given the entitlement of regularisation. The workmen were on rolls on 31st March, 1985 and as they are entitled to be regularised in service. It is prayed by the workmen that this tribunal be pleased to hold that the action of the management in terminating their services is not justified and they are entitled to be reinstated with full back wages and other consequential benefits.

3. The management contested the reference proceeding and filed their Written Statement. The case of the management in brief is as follows. That the workmen were appointed as casual labours for the specific work and on completion of the said work, their services automatically came to an end. They were paid compensation for the same. The employment of workmen was not against any clear vacancy or sanctioned post. They did not put in continuous

service as required under Section 25 of the I. D. Act, 1947 and hence the termination does not amount to retrenchment as provided in the said act. The workman on their own accord had failed to render services for the full year and hence as per policy of the management, their absence from service could not be condoned and their services automatically came to an end. The discontinuation of the services of the workmen is as per policy of the management and on completion of the targeted work, no casual labour has been engaged in place of workmen and therefore they are not entitled to any relief prayed for.

4. The workman in support of their case examined Smt. Archana Yadav, the widow of workman late Mahesh Prasad Yadav as WW-1, workman Shri Amarjit Verma WW-II, workman Shri Shiv Prasad Kushwaha WW-III and Shri A. K. Nigam WW-IV.

5. The management in order to defend the reference proceedings examined Shri B. N. Pateria MW-1, the then posted as Sub Divisional Engineer, Administration in the office of Telecom District Engineer, Satna.

6. Both the parties have filed photostat copies of the documents in support of their respective case. Those documents shall be referred in the body of this award where the need be.

7. Both the parties have submitted their written arguments which are on record of this reference.

8. I have heard Shri A. K. Shashi, Advocate for workmen/Union and Shri Sajid Akhtar, Advocate for management. I have very carefully gone through the entire evidence on record.

9. The learned counsel for the workmen/Union submitted that the workman were employed by the management as casual labours for doing departmental work, they had completed more than 240 days working in a calendar year but their services were terminated on the allegation that they remained absent for long period of time without leave, not only this their services were terminated without giving any show cause notice or without conducting any departmental enquiry and therefore, the termination amounts to retrenchment and the same having been brought about without complying with the mandatory provisions of Section 25-F of the I. D. Act, 1947 is illegal and void ab initio. The learned counsel also added that the hundreds of employees who are junior to the workman are still working with the management.

10. Against the above, the learned counsel for the management submitted that the workmen did not put in continuous service as required under the provisions of Section 25-B of the I. D. Act, 1947 and hence the termination does not amount to retrenchment as provided in the aforesaid Act. The learned counsel further added that the workmen were engaged as casual labours for targeted work

of erection of telephone poles for drawing telephone lines due to expansion of the Telecom Services in Telecom District, Satna. The workman had never rendered continuous service and remained absent for the period of years together and therefore on completion of the targeted work, their services were no longer required, therefore, their services were terminated after giving one month's salary in lieu of notice and retrenchment compensation.

11. During the pendency of this reference proceeding, workman Mahesh Prasad Yadav died. Smt. Archana Yadav, WW-1 deposed in her affidavit that her late husband Mahesh Prasad Yadav was engaged as casual labour under SDO(T), Satna since 1981. He continued to work for 2425 days with the management. He worked for 361 days in the year 1982-83, 273 days in the year 1986-87, 317 days in the year 1987-88, 304 days in the year 1988-89 and 305 days in the year 1989-90. On being cross examined this witness stated that she never went with her husband at his place of work and she does not know as to what work her husband used to do for the management. This clearly indicates that the oral testimony of this witness is not acceptable as a reliable piece of evidence. Workman Shri Amarjit Verma, WW-II deposed that he worked for 305 days with the management in the year 1987-88, 335 days in the year 1988-89 and 323 days in the year 1989-90. Similarly workman Shiv Prasad Kushwaha WW-III deposed in his affidavit that he worked with the management for 328 days in the year 1988-89 and 334 days in the year 1989-90. The workmen/Union in order to indicate as to how many days since 1981 till 1990 they worked with the management, have filed photostat copies of certain documents bearing No. 8/4, 8/11 and 8/12. It is worthwhile to note here that some of them are not legible photostat copies. Shri A. K. Nigam, WW-IV deposed that he was posted as Telecom District Engineer at Satna since April 1988 to June 1991. On the request of the workmen/Union, the management was directed to produce this witness vide order dated 3-9-01 passed by the tribunal. This witness further deposed that the photostat copies bearing No. 8/4, 8/11 and 8/12 have been issued from their Satna office. The above evidence falls short in proving that the above mentioned photostat copies are really the true photostat copies made from the original record. This witness did not state as to who prepared the said documents, in whose handwriting those documents were prepared and who signed those documents. This witness also did not state as to who issued those photostat copies of the documents from his Patna Office. Not only this, the original record was not brought by this witness at the time of recording his evidence. The workmen/Union did not move any application to direct the management to produce original record relating to their service. I am of the view that the workmen/Union have failed to prove the documents of which photostat copies on record have been filed in accordance with the law of evidence and therefore those photostat copies of the

documents cannot be read in evidence. Against the above, Shri B. L. Pateria MW-1 who was then posted as Sub Divisional Engineer Administration in the office of Telecom District Manager, Satna deposed in his affidavit that on completion of targetted work, the services of workmen were no longer required and accordingly they were given one month's salary in lieu of notice and retrenchment compensation. He further deposed that the copies of documents Ex. M-1, Ex. M-2 and Ex. M-3 prove the above fact in writing. This witness has not been cross-examined by the workman/Union on this point that they were not given one month's salary in lieu of notice and retrenchment compensation. It has not been suggested to this witness for the workman/Union that the workmen were not given one month's salary in lieu of notice and retrenchment compensation. Thus it is proved that the workmen were given by the management one month's salary in lieu of notice and the retrenchment compensation. Under the circumstances, if it is presumed for the sake of argument only that the workmen worked continuously for 240 days in a calendar year even then it is proved that there has been any breach of provisions of Section 25-F of the I. D. Act, 1947 because it has been established that in lieu of notice, one month's salary and retrenchment compensation was given to the workmen by the management. The argument advanced by the learned counsel for the workmen that hundreds of employees who are junior to the workmen are still working with the management has no legs to stand as there is no evidence of the workmen/Union on record to prove that the persons junior to the workmen are still working with the management. Therefore it cannot be held that the termination of services of the workmen by the management is hit by the provisions of Section 25-F of the I. D. Act, 1947.

12. It has been averred in the statement of claim on behalf of workmen/Union that according to directions issued by the Supreme Court of India, a scheme has been formulated and according to the said scheme persons who have completed more than 600 days of service are entitled to be regularised. It shall be worthwhile to note here that the learned counsel for the workmen/Union has not cited any law in which the Hon'ble Supreme Court of India issued the aforesaid directions. The workmen/Union has also not brought any such scheme on record of this case. Thus the workmen/Union has failed to prove the averments made above in the statement of claim.

13. In view of the above, the reference deserves to be answered in favour of the management and against the workmen/Union. Considering the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

14. The reference is answered in favour of the management and against the workmen/Union holding that the action of management of Telecom District Engineer,

Satna (M.P.) in terminating the services of S/Sh. Mahesh Prasad Yadav, Amarjeet Verma and Shiv Prasad Kushwaha w.e.f. 25-9-90 and 20-9-90 is proper, legal and justified. Consequently the workmen are not entitled to any relief. The parties shall bear their own costs of this reference.

15. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2006

का. अ. 4059.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय विद्यालय के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चंडीगढ़ के पंचाट (संदर्भ संख्या 873/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/178/93-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 873/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kendriya Vidyalaya and their workman, which was received by the Central Government on 21-9-2006.

[No. L-42012/178/93-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

Shri Kuldip Singh, Presiding Officer

Case I. D. No. 873/2k5

Registered on 9-9-2005

Date of Decision 3-8-2006

Shri Rajbir Singh S/o Shri Bhale Ram,
Village and P. O. Doomerkha Kalan,
Tehsil Narwana,
District Jind (Haryana)

... Petitioner

Versus

Principal Kendriya Vidyalaya,
Hissar Cantt. 125001.

... Respondent

APPEARANCE:

For the Workman : Mr. I. S. Sidhu, Advocate

For the Management : Mr. J. S. Rana, Advocate

AWARD

The following reference was made by the Govt. of India for the adjudication of this Tribunal vide their reference No. L-42012/178/93 dated 16th November, 1994:

“Whether the action of the Management of Kendriya Vidyalaya, Hissar Cantt. in terminating the services of Shri Rajbir Singh, Ex-Peon w.e.f. 21st September, 1992, is just, fair and legal? If not, to what relief the workman concerned is entitled?”

The notice of the reference was given to the parties. The workman appeared in person and Management through Counsel. The workman filed the Claim Petition to which the Management filed the Written Statement and the workman his rejoinder. In support of his claim the workman filed his affidavit and the Management filed the affidavits of their witnesses, namely N. C. Kocchar, P. L. Bansal and Bhupinder Kaur. However, they examined only P. L. Bansal, in support of their claim. The workman came in the witness box and proved his affidavit on 9th January, 2004. He also faced the questions of the Management in cross-examination.

The claim of the workman is that he was appointed as Class-IV Peon on 11th November, 1991, on daily wages, but was paid wages on monthly basis. The pay was not disbursed in cash but was deposited by the Management in the account of the workman maintained in the State Bank of India, Hissar Account No. 42/6277; that he served the Management upto 22nd September, 1992 although the Management did not allow him to mark the presence after 17th September, 1992. He served the Management for 290 days. However, the Management terminated his services without any chargesheet, inquiry and thus his termination from service was in violation of provisions of Industrial Disputes Act; that since the day of his termination, despite his best efforts, he has not been able to get work and is unemployed till date, that there are ten posts of Class-IV Group D employees out of which four posts i.e. two posts of Peon and two of Lab Attendants, are lying vacant. The workman has prayed for setting aside the order of termination of his services, reinstatement on the job he was working with continuity of service and back wages alongwith interests and other consequential benefits.

The Management has opposed the claim of the workman by taking preliminary objection to the maintainability of the Claim Petition. It is stated by them that the petition is not maintainable since it has been filed against the law and facts. The workman has no locus standi nor he has any cause of action to maintain this petition, which is also against the principles of natural justice as the

workman has concealed the true facts from the Court. The petition is also bad having been based on wrong facts with malafide and for the reason that neither the petitioner is a workman nor the Management is an industry. There is also no relationship of employee and employer between the parties; and that the workman was engaged on daily wages on need basis.

In reply to the claim of the workman, made in the Claim Petition, it is stated by the Management that the facts given by the workman, in paras 1 to 6, are false; hence denied. Their part of story is that the workman was engaged on daily wages as per the need of the work and before recruiting him neither any interview was held nor there was any proper selection. There was also no regular job against which he could be appointed. Admitting that the workman had served the Management from 11th November, 1991 to 17th September, 1992, they have further stated that since there was no exigency of work, therefore, the workman was not engaged w.e.f. 18th September, 1992. It is further claimed by them that the workman had worked sometimes for 20 days, sometimes for 26 days and sometimes for 10 days only which shows that he was not engaged for the regular job rather he was engaged on need basis. There was no question of terminating his services. Contesting that the work of the workman was satisfactory it is stated by them that the Management did not violate the provisions of law and the principles of natural justice. Since there was no appointment nor any termination, therefore, there was no necessity to charge-sheet the workman or hold an inquiry against him. They have also prayed for dismissal of the petition on the ground that this Court has no jurisdiction to file petition.

From the pleadings of the parties it is proved that the workman had served the Management from 11th November, 1991 till 17th September, 1992. Thus he served the Management continuously for ten months and 4 days plus and this further proves that on the day of disengagement of the workman, on 17th September, 1992, he had put in more than 240 days continuous service preceding the date of termination of his services. Management examined Shri P. L. Bansal, the principle of the Management Vidyalaya, as witness in the case. Sh. Bansal, in his affidavit, which he proved as correct and which has been exhibited as M-1, he stated that the engagement of the workman was irregular since neither any applications were called from General Public nor through employment exchange. Reiterating the facts stated in the Written Statement, he further stated that since the workman was engaged on daily wages, therefore, he did not fall in the category of workman. It is further stated by him that the employment of the workman was not done after an open competition, therefore, he is not entitled to relief of reinstatement. When cross-examined further he denied that his affidavit is beyond the pleadings. He admitted that his affidavit was prepared on the basis of record of the school and on his instructions.

We find that the defence of the Management to the claim of the workman is purely on the basis that neither the petitioner is a workman nor the Management is an industry; therefore, the claim of the workman is not maintainable; the workman was engaged on day to day and need basis and was not recruited after an open competition, having been recommended by the employment exchange. His appointment was thus irregular and thus he has no right to claim reinstatement; that there is no appointment of the workman nor any termination order was given to him, therefore, there was no question of giving him any chargesheet or holding of any inquiry against him. The position is very clear that the workman was not given any notice, before the termination of his services. He was also not paid termination compensation nor a notice was given to an appropriate govt. about the proposed termination of the workman. The Management, therefore, clearly violated the provisions of Sec. 25-F of the Industrial Disputes Act, 1947, hereinafter to be referred as "Act", as it is admitted by the Management that the workman had served them continuously from 11th November, 1991 to 17th September, 1992, that is for more than 240 days continuously preceding the date of his disengagement from service.

The Management has not shown as to how the petitioner is not a workman and how they are not an industry. The law is now settled that in order to be a workman a person need not to be employed in a substantial capacity or on a temporary basis, in the first instance. In other words, every person employed in an industry, irrespective of his status, be it temporary, permanent or on a probationer, would be a workman, as has been held by the Karnataka High Court in the case of Hutchiath V/s Karnataka State Corporation (1993 1 LLJ 30). The Hon'ble High Courts of Gujarat and Rajasthan in the cases of [1984(2)LLJ 75] and [1989(2)LLJ 289] have defined as to what the workman is. Sec. 2(S) of the Act clearly defines that a person employed in an industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for higher or reward whether the terms of employment is express or implied and for the purpose of any proceeding under the Act, in relation to an Industrial Dispute, includes any person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge, retrenchment has led to the dispute.

The Management has claimed that they are not an industry. The Hon'ble Supreme Court has defined the word "industry" in the case of Bangalore Water Supply and Sewerage Board V/s A. Rajapaa, reported as 1978 LAB IC 778. They have held that where there is a systematic activity, organized by co-operation between the employer and employee, for the production and/or distribution of goods and services calculated to satisfy human wants and wishes, prima facie there is an industry. Their lordship have further held that if the three test listed above are fulfilled even in the case of professional clubs, education, institution,

cooperative and research institutes, charitable project and other kindred adventures, they fall in the category of industry. In the present case the Management has not shown as to how they are not an industry. It should not be presumed, but their case, at the best, can be that they being an educational institution did not fall in the category industry. For the reasons given above their plea in this regard does not hold good and is rejected.

In view of the discussions made above I am of the opinion that the action of the Management of Kendriya Vidyalaya, Hissar Cantt. in terminating the services of Shri Rajbir Singh was not just, fair and legal. Therefore, the termination of workman is set aside. He is treated to be in service as if there was no order of his termination passed by the Management. He is entitled to all service benefits including back wages. But keeping in view the fact that the workman must have earned at least to feed his family, he will be entitled to 50% of the wages. The Management is directed to take him back in service immediately and pay him back wages within three months from today failing which the workman shall also be entitled for interest on the amount due at the rate of 9% p.a. The award is passed against the Management. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2006

का. आ. 4060.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-I, नई दिल्ली के पंचाट (संदर्भ संख्या 65/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/288/94-आई आर (डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a corrigendum to the award (Ref. No. 65/95) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C. P. W. D. and their workman, which was received by the Central Government on 22-09-2006.

[No. L-42012/288/94-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE
BEFORE SHRISANT SINGH BAL PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL NO. 1, NEW DELHI

I. D. No. 65/95

In the matter of dispute between :

Shri Rakesh Kumar Kaushik and
 Kailash Chand both Assistant Pump Operator
 Through Secretary,
 C. P. W. D., Karamchari Union (Regd.),
 Bhai Veer Singh Marg,
 Gole Market, New Delhi ... Workmen

Versus

Chief Engineer,
 C. P. W. D., Zone-II,
 M. S. O. Building,
 Indraprastha Estate,
 P. H. O., I. T. O.,
 New Delhi. ... Management

APPEARANCES:

Shri Des Raj Nagpal, A/R for workmen with workmen
 in person

Shri Ashish Sharma A/R for the management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/288/94-I. R. (D. U.) dated 18-5-95 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of C. P. W. D. in not granting seniority to S/Shri Rakesh Kumar Kaushik and Kailash Chand both Assistant Pump Operator and handicapped (both) against the handicapped quota and also conveyance allowance from the date of their joining i.e. 27-7-84 and 24-10-80 respectively is just, fair and legal? If not, what relief the workmen are entitled to?"

2. Brief facts of this case as culled from record are that Shri Kailash Chander and Rakesh Kumar, both Assistant Pump Operators were working under the Executive Engineer CPWD respondent No. 4 since 24-10-80 and 27-7-1984 respectively. Both of them are handicapped as is apparent from the medical certificates Annexure A. They were denied regularization against handicapped quota. Both the workmen claimed regularization but were denied the same by the management nor any reply was given. Workman Rakesh Kumar Kaushik was regularised w.e.f. 24-9-92 pursuant to the orders of the Hon'ble Supreme Court of India dated 6.9.91 in the Writ Petition No. 1324/90 C.P.W.D. Karamchari Union Vs. U. O. I. vide which the Hon'ble court directed the U. O. I. to regularize the petitioners as per their seniority but the management did not obey. The workmen are entitled for regularization as per their seniority. Admittedly the

respondent No. 3 in the Letter No. 2407 dated 23-9-92 regularising the workman Rakesh Kumar had contended that seniority would be fixed later. Both the workmen are entitled for conveyance allowance from the date of their respective appointments as per Govt. Order No. 19029/1/78-E IV (B) dated 26-8-1983 and order of Hon'ble Supreme Court dated 17-1-86 in the case of Surinder Singh and others Vs. Engineer in Chief C.P.W.D. but the management is not implementing the same. The respondent No. 3 forwarded vide letter dated 13-1-94 to Respondent No. 2 for Conveyance Allowance deserve to be paid to the both workmen, as per Govt. Policy and clear Instructions but the respondent are declined the same. The respondent No. 4 stated vide their letter dated 22-2-84 ruled that the workman Shri Kailash Chander does not fall under the category of the Recognised Handicapped, which is totally false and disputed. Both the workmen are entitled for essential work and essential duty. They are entitled for the essential staff quarters. Many times workmen applied for the same but management denied while their juniors were considered and allotted. Both the workmen thus claims to be entitled to conveyance allowance, seniority/essential staff quarters as per Government orders and any other facilities as per Govt. orders and instructions and pass such other orders as deemed fit and just and proper.

3. Case is contested by the management by filing written statement stating therein that both the workmen Rakesh Kumar Kaushik and Kailash Chand were engaged on daily rate basis as Assistant Operator on 24-10-80 and 27-7-84. For engagement of workman on daily wages basis no medical examination is conducted by the department. They were, therefore, appointed without medical examination. They were referred to C.G.H.S. for medical examination at the time of their regularization in the year 1992 and 1994 respectively. At the time of filling in their declaration forms they concealed the fact of their physical handicapness and got medical fitness certificate but later on, they submitted disability certificate demanding various facilities available to the handicapped Group D Central Govt. Employees on Regular Estt. whereas there is no provision for employment of handicapped persons on work charge establishment of CPWD. Medical Certificate indicating their handicapness submitted by the workmen belong to the period prior to their regular employment in CPWD as the workmen concealed the fact of their being handicapped in their declaration form for their medical examination before their regular appointment in C.P.W.D. The department was left with no other option but to initiate proceedings before the medical authorities. They are not fit to issue department letter. They are not fit to discharge the duty mentioned in the post. They will endanger not only their lives but they will endanger the lives of co-workers and risk and damage of the Elect./Mechanical installations. The question of quota for the handicapped against the said post cannot be considered. The case of their re-employment/terminal

ANNEXURE

BEFORE SHRISANT SINGH BAL PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL NO. 1, NEW DELHI

I. D. No. 65/95

In the matter of dispute between :

Shri Rakesh Kumar Kaushik and
Kailash Chand both Assistant Pump Operator
Through Secretary,
C. P. W. D., Karamchari Union (Regd.),
Bhai Veer Singh Marg,
Gole Market, New Delhi ... Workmen

Versus

Chief Engineer,
C. P. W. D., Zone-II,
M. S. O. Building,
Indraprastha Estate,
P. H. O., I. T. O.,
New Delhi. ... Management

APPEARANCES:

Shri Des Raj Nagpal, A/R for workmen with workmen
in person

Shri Ashish Sharma A/R for the management

AWARD

The Central Government in the Ministry of Labour
vide its Order No. L-42012/288/94-I. R. (D. U.) dated
18-5-95 has referred the following industrial dispute to this
Tribunal for adjudication :

"Whether the action of the Management of
C. P. W. D. in not granting seniority to S/Shri Rakesh
Kumar Kaushik and Kailash Chand both Assistant
Pump Operator and handicapped (both) against the
handicapped quota and also conveyance allowance
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2. Brief facts of this case as culled from record are
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Assistant Pump Operators were working under the
Executive Engineer CPWD respondent No. 4 since
24-10-80 and 27-7-1984 respectively. Both of them are
handicapped as is apparent from the medical certificates
Annexure A. They were denied regularization against
handicapped quota. Both the workmen claimed
regularization but were denied the same by the management
nor any reply was given. Workman Rakesh Kumar Kaushik
was regularised w.e.f. 24-9-92 pursuant to the orders of the
Hon'ble Supreme Court of India dated 6., 91 in the Writ
Petition No. 1324/90 C.P.W.D. Karamchari Union Vs. U. O.
I. vide which the Hon'ble court directed the U. O. I. to
regularize the petitioners as per their seniority but the
management did not obey. The workmen are entitled for
regularization as per their seniority. Admittedly the

respondent No. 3 in the Letter No. 2407 dated 23-9-92
regularising the workman Rakesh Kumar had contended
that seniority would be fixed later. Both the workmen are
entitled for conveyance allowance from the date of their
respective appointments as per Govt. Order No. 19029/1/
78-EIV (B) dated 26-8-1983 and order of Hon'ble Supreme
Court dated 17-1-86 in the case of Surinder Singh and others
Vs. Engineer in Chief C.P.W.D. but the management is not
implementing the same. The respondent No. 3 forwarded
vide letter dated 13-1-94 to Respondent No. 2 for
Conveyance Allowance deserve to be paid to the both
workmen, as per Govt. Policy and clear Instructions but
the respondent are declined the same. The respondent No.
4 stated vide their letter dated 22-2-84 ruled that the
workman Shri Kailash Chander does not fall under the
category of the Recognised Handicapped, which is totally
false and disputed. Both the workmen are entitled for
essential work and essential duty. They are entitled for the
essential staff quarters. Many times workmen applied for
the same but management denied while their juniors were
considered and allotted. Both the workmen thus claims to
be entitled to conveyance allowance, seniority/essential
staff quarters as per Government orders and any other
facilities as per Govt. orders and instructions and pass
such other orders as deemed fit and just and proper.

3. Case is contested by the management by filing
written statement stating therein that both the workmen
Rakesh Kumar Kaushik and Kailash Chand were engaged
on daily rate basis as Assistant Operator on 24-10-80 and
27-7-84. For engagement of workman on daily wages basis
no medical examination is conducted by the department.
They were, therefore, appointed without medical
examination. They were referred to C.G.H.S. for medical
examination at the time of their regularization in the year
1992 and 1994 respectively. At the time of filling in their
declaration forms they concealed the fact of their physical
handicapness and got medical fitness certificate but later
on, they submitted disability certificate demanding various
facilities available to the handicapped Group D Central Govt.
Employees on Regular Estt. whereas there is no provision
for employment of handicapped persons on work charge
establishment of CPWD. Medical Certificate indicating their
handicapness submitted by the workmen belong to the
period prior to their regular employment in CPWD as the
workmen concealed the fact of their being handicapped in
their declaration form for their medical examination before
their regular appointment in C.P.W.D. The department was
left with no other option but to initiate proceedings before
the medical authorities. They are not fit to issue department
letter. They are not fit to discharge the duty mentioned in
the post. They will endanger not only their lives but they
will endanger the lives of co-workers and risk and damage
of the Elect./Mechanical installations. The question of
quota for the handicapped against the said post cannot be
considered. The case of their re-employment/terminal

benefits shall be dealt with separately. Workmen are not medically fit for the post they had been appointed for hence question of allowing benefit does not arise. Department is considering the case of conveyance allowance. Both the workmen Kailash Chand (Blind) has already been taken away from the duty of the post of Asstt. Operator. Shri Rakesh Kumar Kaushik shall also be taken away from the duty of Asstt. Operator for the safety of his life and for the safety of co-workers and the installations.

4. From the facts it emerges out that both the workmen Shri Kailash Chander and Rakesh Kumar were appointed as Assistant Pump Operators w.e.f. 27-7-84 and 24-10-80 respectively but according to the management they suppressed the fact of their being handicapped before the Medical Officer when they were medically examined for their regularization w.e.f. 1992 and 1994 and the medical officer issued fitness certificate to both of them and they were accordingly regularized w.e.f. 21-2-92, 24-9-92 respectively but later on it was discovered that they are handicapped when they started claiming facilities of concessions available for handicapped persons. Hence they were medically examined and it was found that Shri Kailash Chander was blind, short of vision and could see upto 6 or 3 feet only while Shri Rakesh Kumar Kaushik was found arms of the other was found amputated and was also found handicapped. Thus the department denying concessions to both of the workmen on the ground that namely (1) they did not declare themselves to be handicapped in declaration form and did not disclose this fact before the medical officer who examined them at the time of their initial appointment and regularization but they started claiming concessions for being medically handicapped and that they were also declared so on their examination thus it is apparent that both the workmen are medically handicapped persons and according to the department they cannot function properly as Pump Operator and their functioning is dangerous not only to their life but also to the lives of public at large. According to the management they are guilty of suppression of the fact that they were so handicapped but it is proved that both the workmen are handicapped persons and were given appointment may be that they did not disclose this fact before the Medical Officer who examined him but the fact of imputation of arm Rakesh Kumar cannot go unnoticed by the medical officer who examined him. Disability of a person on account of imputation of his arm can be discernible even to a lay man what to speak of a medical officer. The other person who was blind or having a very short vision can also be found so on examination by Medical Officer but it is surprising that they were so appointed and this fact was not disclosed to the department but non disclosure of the fact that they were being handicapped initially does not efface the fact of their being handicapped. Management in their written statement in para No. 7 has also admitted that both the workmen fall in the category of recognized handicapped and it is also stated that Kailash Chand blind has been taken away from service from the duty of the post of Assistant Pump Operator. He

has not challenged his removal from service in this reference. It is also stated that Shri Rakesh Kumar shall be taken away from duty of Assistant Pump Operator for safety of his life and safety of others but there is nothing on record that any action against him has been so initiated and taken against him. It is also stated in para No. 7 of written statement that the department is considering case of conveyance allowance to them. It is also admitted in the parawise comments of the department of the management placed on record among documents at page 5 that there is 3% quota for handicapped persons and from the copy of Annexure I i.e. programme and concessions to the persons with disabilities through the Central Government annexed with the written submissions on behalf of the workman union. In the topic of Reservation of Job and other facilities to disabled persons which is mentioned 3% reservation from Gr. 'C' and 'D' Posts. As per the order of Government of India reservation of 3% in jobs have been made in Gr. 'C' and 'D' posts for the PH persons. The category of handicapped persons benefited are the blind, the deaf and the O. H. persons as given below :

Category of handicapped	%age of reservation
(1) The Blind	1%
(2) The Deaf	1%
(3) The OH	1%

5. They are entitled to conveyance allowance as per rule and other facilities available to the regular employees.

6. In view of the above discussions it emerges out that both the workmen were appointed initially as Assistant Pump Operator on casual basis and were regularized from the year 1992 and 1994 respectively as mentioned above. They are entitled to the concession of conveyance allowance as per rules from the date of their respective appointment w.e.f. 27-8-84 and 24-10-89 till date of this award. Both the workmen have claimed seniority but there is no evidence on record that they are senior or as to how many persons have been appointed and the workmen are senior amongst those appointed by the respondent. However, the workmen are entitled to seniority from the date of their respective appointment on regular basis. It is further held that Kailash Chander is entitled to conveyance allowance from the date of initial appointment on casual basis till he was taken out from the service and Rakesh Kumar is entitled to conveyance allowance as per rule till date of the Award and thereafter.

7. Hence it is held that both the workmen are entitled to be appointed against the handicapped quota as per rule and are entitled to conveyance allowance from the date of their initial appointment as per rule. Shri Kailash Chander is entitled to the conveyance allowance till the date he was taken off from service. The reference is answered accordingly and file be consigned to record room.

Dated : 15-9-06

S. S. BAL, Presiding Officer